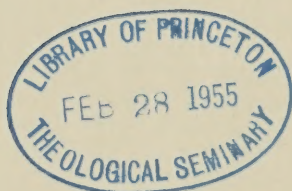


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A Democratic Manifesto

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*The Impact of Dynamic Christianity
Upon Public Life and Government*

by
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To
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Preface

THE IDEAS in this small book were originally conceived a few years ago for a lecture delivered at the Seventy-fifth Convocation at Vanderbilt University on the general subject of "Christianity and Political Society." That lecture was later expanded and published in pamphlet form under the title "Democracy and the Christian Faith" and was widely circulated by the Foundation for the Study of Christianity and Democracy at Vanderbilt. The following year I delivered the Gates Lectures at Grinnell College on the same theme. The deep interest everywhere today in the meaning of democracy and the constant requests from many sources for a brief but comprehensive definition of democracy has encouraged me to make available these chapters which comprise the Gates Lectures substantially as they were delivered. There is always the question of how to justify a small book

on a large subject. In this case, the justification rests on the clear intent not to be definitive but simply to restate some important aspects of democracy and to indicate the creative relation of religion to democratic philosophy, a matter not clearly understood or adequately appreciated today. While this book is concerned to appraise the modern challenge of communism, it is even more concerned with making manifest what democracy is and what it takes to preserve it.

More than a formal duty prompts me to make certain acknowledgments. I am indebted to Dr. Nathaniel Micklem of Mansfield College, Oxford, who read the manuscript and made many valuable suggestions for improvement. Dean John Keith Benton of the School of Religion at Vanderbilt has been constant in his encouragement and help. Mr. William B. Calkins' deep concern about Democracy led him to establish at Vanderbilt a Foundation for the Study of Christianity and Democracy which made possible some of the research for this book. I want to acknowledge, too, the generous hospitality of President and Mrs. Samuel Stevens when these lectures were delivered at Grinnell College. Most of all I am indebted to my wife to whom this book is affectionately dedicated.

SAMUEL ENOCH STUMPF

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A Democratic Manifesto

I

The Challenge to Democracy

THE POWERFUL assault of communism upon the modern world has shaken democracy to its foundations. To a generation which has taken the democratic way of life for granted, this steady spread of communism is an irritation which does not seem to disappear just because we do not like it. Almost instinctively we appraise communism as a military challenge and are thereby further frustrated because it continues to seep through military defenses and geographical boundaries. What we take to be a challenge of force does not want to respond to our use of force. Though communism is a gigantic conspiracy which would violently subjugate the world, we make a mistake if we see in communism only an organization of physical force. If this were all we are dealing with, the remedy and defense against it would more readily suggest itself.

The real challenge from communism lies in the realm of the spirit. Communists throughout the world have taken the initiative in the articulation of ideas. What we have thought to be the strength of democracy, namely, the clear convictions of free, rational men, seems curiously to be absent in our day. While communism speaks out with clear and forceful tones, unleashing a devastating criticism upon the Western democracies and spelling out in detail its blueprint for a new world, the democracies react with astonishment. We are astonished not only at the thought that democracy is vulnerable to criticism but that the superiority of democracy over communism is questioned at all. This astonishment is really the reflection of a deep problem in democracy today, for it means that we have substituted an emotional attitude for rational argument. Having taken democracy for granted for so long, we have lost the power of language to define it and defend it. The seminal ideas which undergird the grand concept of democracy are no longer standard equipment with us. Our refusal to debate the issues with communism reflects not only our reluctance to have any traffic with a vulgar philosophy but also an embarrassing inability to marshal up the clear philosophy of democracy.

What makes our position even more desperate is that theoretically communism is not supposed to be concerned so very much with ideas, resting as it does, upon a materialistic view of things. Democracy, on the other hand, exalts the rational power of man and rests chiefly upon ideas and ideals. Yet we face the curious paradox that communist materialism threatens democracy precisely because it is offered to the world in the form of a clear and systematic set of ideas, whereas democracy does not have a vivid conception of its own rich foundations which can be clearly expressed.

Moreover, it is a mistake to think that communism rests its case solely on the argument that it can provide more material things for the satisfaction of human wants and desires. The appeal of communism lies rather in its promise of a just social order and in its coherent analysis of human nature, history and social institutions. It appeals as a complete and articulate philosophy of man and his destiny. Communism makes a surprising appeal precisely at the point where the democracies like to think their strongest case lies, for the communists urge upon their listeners throughout the world that they are the heralds of freedom, justice and equality. Indeed, the communists go the final step in this

regard and claim to be the true advocates of "democracy." To many people these claims of communism are convincing. And the magnitude of the communist challenge becomes evident especially when we realize that much of the Western world and a considerable portion of Asia are today extremely vulnerable to the ideological thrust of communism.

It would be naive to think that the challenge to democracy is simply an ideological one. Economics and military strategy are deeply involved in this conflict too. But we cannot avoid the fact that ideas have consequences or that actions are generated by ideas. And faced with such a formidable set of ideas as communism provides, the defenders of democracy are forced to clarify their own ideals. We cannot expect the meaning of democracy to be self-evident to a world which has not considered its deeper roots, and has been caught intellectually and spiritually unprepared. To a world challenged by the elaborate philosophy of communism it is not sufficient to speak of democracy simply as "a way of life" or as a "method" of dealing with problems or even as a "system of ordered liberty," however correct these points may be. Even though democracy has no doctrinal treatise comparable to

the Communist Manifesto, it does have a far richer and more impressive philosophy than its advocates have normally considered.

Furthermore, there is another threat to democracy, subtle and not often recognized. For when we consider the communist preoccupation with materialism, atheism, determinism and the primacy of the economic life, it is rather staggering that just these ideas are the controlling ones among vast numbers of people in modern Western civilization. As we seek to state the case for democracy we find a serious deficiency in the spiritual investment which democracy requires. Much of our response to the communist challenge is negative in that we seek only to criticize the ideas and conduct of communism. But we are in many instances deficient just where we seek to point out the weakness of the communist ideology. Our deficiency, though, is one of neglect. Our heritage and tradition are rich in spiritual insight. And the case *for* democracy is a formidable one and ought to be stated in its fulness and with positive power. No one is under any illusion that simply by stating a set of ideas we can bring into tranquil repose a world torn by convulsive revolutionary forces. But it is equally unrealistic to deny that our present struggle is a fierce

competition for men's minds and souls. And in this ideological encounter it is imperative that we have some clear notion of the richness of our heritage and a sense of the timeliness of the timeless values democracy espouses. The vigor of the communist assault ought to prod us into a re-examination of the basic convictions out of which democracy has grown.

The communist challenge is aimed at every crucial feature of democracy. Most important of these is the appraisal of human nature, of man and his destiny. The real question confronting us here is how and in what terms democracy can reply to the threat to the dignity and the worth of man. The democracies repudiate the materialistic conception of man which the communists enunciate. Much of our own thinking about human behavior and social forces is so closely tied to the notion that the laws of supply and demand are absolute, that is, that the sub-stratum of life is after all economic, that we are close to the materialistic interpretation of man which we want to denounce with such fury. But the democratic philosophy rests originally upon a view of man which sees him as free, morally responsible, and the bearer of some peculiar value in the nature of things. There are many intellectual

sources from which this view of man springs, including much of the great tradition of Western philosophy and the decisive power of the Judaeo-Christian tradition. To some extent, the degree of democratic vitality can be measured by the vitality of this combined philosophic and religious heritage for in the long run it is from this source that there comes the animation for those convictions about man which make us seek freedom and resist tyranny. The communist challenge forces our generation to re-examine the role of philosophy and religion in the realm of public life and government, particularly as these illuminate for us man's nature and destiny.

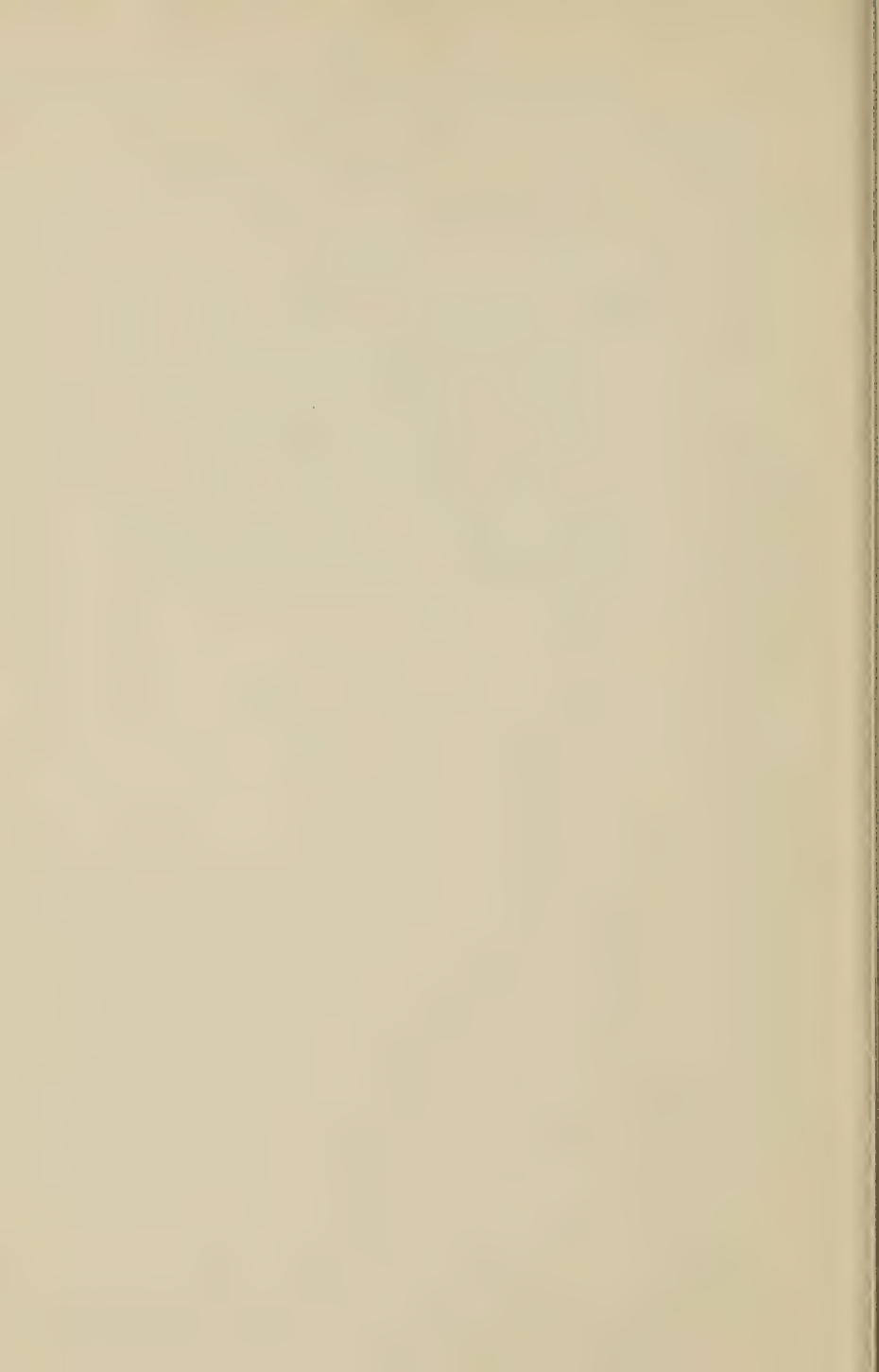
Another point at which communism has challenged democracy concerns the whole matter of the "rule of law," or the doctrine of the supremacy of law. We are horrified at communist lawlessness. The whole idea of totalitarianism strikes us as a denial of the safeguards of law. The history of democracy and of freedom in general is the history of man's attempt to bring society under the rule of law. The democratic conception of law and its supremacy rests upon some profound convictions concerning the ultimate source and nature of law. The insights, for example, of the Stoics combined

with Judaeo-Christian ideas produced the doctrine of natural law which was so important in the development of the democratic view of law. But once again, the drift of thought in Western legal philosophy has tended in a direction which is not too different in principle from what communism teaches. We are challenged to re-examine and to reaffirm our truly democratic conception of law.

We view with horror, too, communist insensitivity to morality. In its doctrine that the ends justify the means we see a destructive morality. Our own feeling that the good life cannot be achieved apart from the moral life and that the conduct of man both in private and public life must be governed by ethical standards is affronted by this "ends justify the means" formula. The indefensible treatment of human beings and callous disregard of human values indicate further the absence of moral restraints to stay the hand of ruthlessness. Communism does have, however, a certain moral tone. Indeed, the extraordinary spread of communism can be accounted for to a great extent by its moral appeal. Its blast at injustice and class domination, and its fierce denunciation of exploitation are framed in such a way as to arouse the moral indignation of the world. Here democracy is challenged to state

its own grounds for morality and to expose the deceptive morality of communism.

Clearly the times call for a Democratic Manifesto. The challenge of communism forces us to think rigorously instead of in terms of slogans and phrases. To make manifest the meaning of democracy, we are led inevitably to consider democracy more deeply. We need to look behind "the American way of life" to those ideals which produced democracy and which in their continuing dynamic development can further enrich democracy and thereby the life of man.



II

The Basic Faith of Democracy

DEMOCRACY, first of all, is a faith. All political systems ultimately rest upon some faith regarding man's nature and destiny. The sole justification of government is that it purports to help man achieve that good life which his nature requires. But the kind of government men set up and the means they use for achieving their idea of the good life will depend upon how man's nature and destiny are interpreted. The differences in political systems therefore rest to a great extent upon differences in the interpretations of man's nature. Furthermore, these different interpretations cannot be accounted for in any way except that people choose to believe different things about man; in each case we are dealing with a faith.

THE DEMOCRATIC VIEW OF MAN

At the heart of democratic political theory is a faith in the dignity of man. To be sure, democracy

has not always respected this ideal view of man and in many ways has seriously contradicted it. Nevertheless, democracy rests on a faith in the dignity of man, in his rational capacity, in his capacity for achieving goodness and justice and in the inalienability of certain rights which are his by virtue of his humanity. By the dignity of man is meant that each person is to be protected against physical or moral abuse and against discrimination because of the accidents of sex, religion or race. This dignity is further buttressed by a faith in the inalienability of such rights as freedom and equality.

Neither freedom nor equality is an absolute right, for in a democracy our freedom is circumscribed by the rules of conduct to which we voluntarily submit, and our equality is not one of mathematical exactness but is limited by our own capacities. Freedom does mean, however, that man is to be the property neither of another man nor of the government. It means, furthermore, that there must be no arbitrary impediments put in the way of any person to frustrate his rightful desire to share in the power of government, to have access to the needs of life, and to share in all the cultural opportunities which enhance his dignity. An important corollary of freedom is responsibility, for it is possible to hold

responsible for their acts only those who are free to choose their course of conduct. This makes freedom not only a right but also a characteristic of human nature which provides the basis of moral responsibility. Democracy is concerned to protect both freedom and equality as the condition for achieving man's dignity as well as the context within which alone he can live the life of moral responsibility.

Equality means, chiefly, that no arbitrary, non-rational or morally unjustifiable restraints will be used to obstruct the avenues of opportunity for a person's physical, mental and spiritual development. Equality therefore does not mean that everyone should have the same quantity of wealth or even the same role or function in society. There are obvious differences between people from many points of view. At the same time there are ways in which all men are equal, but these equalities men possess are not always obvious and certainly not always recognized and accepted. That all men are equal before the law or that they all can equally claim the protection of their freedom and dignity is not an obvious fact about which there can be no controversy. Moreover, whether the equalities men claim or the inequalities they actually have should be the grounds of the organization of society

is a question which cannot be answered in terms of concrete evidence. In the last analysis, human equality is a matter of faith; similarly, that it is better to build a society on men's equalities instead of upon their inequalities is also a matter of faith. Democracy rests on this faith in human equality and on the faith that inequalities are not decisive.

Democracy rests also on a faith in man's rational capacity and his closely allied capacity to achieve goodness and justice. This is the optimistic aspect of the democratic view of man, for it is assumed that the power of man's reason to penetrate and understand the meaning of goodness and justice will lead him to live in concrete situations according to the principles thus rationally derived. Democracy is equally aware of man's capacity for injustice. But it rests the government on the optimistic rather than the pessimistic view, for pessimism regarding man's nature would lead, as in the case of Hobbes and Luther, to the absolutist state and not democracy. Democratic faith also holds that since all men are rational creatures there is a unity of the reason of humanity so that agreement can be achieved on such questions as what is good and what is just. There is therefore in democracy a decent respect for the opinions of all men, and there is no final

settlement of the idea of goodness or justice while the conscience of any segment of the people remains outraged. Indeed democracy grows out of the conviction that injustice will occur and it therefore creates safeguards against man's inhumanity to man; but this urge to safeguard man rests on a faith in his dignity.

The faith of democracy, then, centers upon the worth and the dignity of the individual. The role of government in this view becomes that of guarding the freedom and the equality of men in order that they may develop the fullest potentialities of their nature. And since the most distinctive element in human nature is man's reason, democracy puts its final faith in the ultimate triumph of reason, believing that men can act not only from a motive of selfishness but upon the basis of justice and right. Both justice and right have their profoundest meaning as they bear upon the lives of concrete individuals. Since the democratic faith revolves around the value of the individual, all claims for the common good or collective justice are measured by their effect upon the individual.

THE CHRISTIAN VIEW OF MAN

In the course of time Christianity played a significant role in the historical development of these

elements of democratic faith. That Christianity had sanctioned slavery, inquisitions, tyrannies, had ruthlessly deprived the human spirit of its freedom and had encouraged practices which tended to divide instead of unify peoples is part of its sad history. In its own time democracy was likewise to repudiate its highest ideals when involved in the ambiguities of human motives and drives. Yet it must be said that the worth and dignity of the individual were enormously enhanced when it was believed that God created each person and invested him with a special purpose in history. This meant that the dignity and value of man were not simply the expression of an exaggerated enthusiasm about human nature but were rather the necessary consequence of the religious view of man, a view which increasingly became compelling upon the minds and consciences of men. Moreover, the deep insight of the Christian faith is that to affirm the dignity of man does not mean that man is automatically virtuous. All men possess a recalcitrant character and equally stand in need of redemptive grace. Thus Christianity produced a frame of mind wherein it became impossible to understand the full nature of man unless and until man is viewed in re-

lation to God and until his capacities for both virtue and vice are seen together.

And the political consequences of this frame of mind were fundamental in the development of democratic doctrines. For now to tamper with the freedom and the dignity of a human being was not only to frustrate the cravings of the human spirit but to contradict the requirements of nature and to repudiate the purpose of God. Furthermore, to make all men subject to the creative purposes of God meant that no person or group of persons could claim, or in the long run justify any claim, to natural sovereignty over their fellow men, for that would be the clearest usurpation of the prerogative of God. To make the creative purpose of God the highest principle by which to interpret the nature and destiny of man had the further effect of limiting the extent to which the government could rightfully concern itself with the ultimate issues of man's life. For the Christian this has always meant that there is for man a higher loyalty than to government ("We must obey God rather than man"), for otherwise the government can make total claims upon the individual, and this is the meaning of the term totalitarianism. Only God can legitimately be

totalitarian since only the sovereign creative purpose of God can claim the total life of man.

Christianity made the important distinction between the individual and the person. To speak of a human being as a person is to see in him more value than if one speaks of him simply as an individual. For man as an individual can easily be thought of in terms of a number, just another small unit in the vast contest of humanity, or as an expendable replica of generic Man. But to speak of man as a person is to consider him a sensitive being, aware that he must be respected. Christianity teaches that God created man in his own image, and historically this has been interpreted to mean that man has a personal relation to a personal God. Once again it becomes plain that the profoundest basis for the value of the individual lies in this religious interpretation of his nature, for it is from this view that he is most adequately seen as a person.

The intense preoccupation of the Christian with the destiny of his soul can lead to an excessive individualism, but the dominant teaching of Christianity is the ethics of the universal brotherhood of man, the highest law of which is love. Christian brotherhood is something quite deeper than Stoic

cosmopolitanism, utilitarian liberalism or the egalitarianism of the Enlightenment, for it is based upon the positive and creative ethics of unconditional love. The Christian view of man's nature is that man is created for, and finds his deepest meaning in, the love of God and the love of his fellow men. This universality underscored for the Christian the oneness of human society, supplied a compelling motive for the recognition of the claims to brotherhood by people everywhere and made available a basis for creative conduct through which to achieve this brotherhood. That this vision of brotherhood has not in fact become a reality either for the Christian Church or for democracy without qualification raises another fundamental Christian insight about man's nature, namely his corruptibility. The Biblical view of man which grounds man's freedom and dignity in God's will also portrays this freedom as the source of his unjust and destructive acts. Both his virtue and sin can equally be traced to his acts of will. But again, instead of making man's tendency to sin the central fact about man, Christianity has merely influenced democracy to take man's weakness into account.

In one way or another, these elements of the Christian faith regarding man's nature and destiny

worked their way into the fabric of democratic political theory and supplied what James B. Conant has called the "cutting edge" of the American ideal. But at the present time both the ideal of democracy and the Christian faith are being subjected to an external and internal threat.

THE COMMUNIST VIEW OF MAN

The external threat to democracy is aggressive communism as we know it chiefly in the form it has assumed in Soviet Russia as well as in Marxian literature. It would, of course, be naive to suggest that Russian communism is totally evil and that the Western democracies are totally good. It is well to realize that in communism we are dealing with a set of ideas which has captured the imagination of vast numbers of peoples throughout the world. The penetrating criticism of capitalism written by Marx and his successors has enough plausibility and historical confirmation in the opinion of many to attract their attention and enlist their interest and active support. Whatever our final appraisal may be of communism, we must account for its extensive spread not only through its conquests of force but by its vigorous attempt at moral appeal. To the poor masses of the world the criti-

cism of the injustices of rapacious capitalism sounds like the denunciation of unrighteousness in the name of justice. To the intelligentsia Marxism makes an appeal through its scientific analysis of society and history as well as the moral character of its denunciations of exploitation and tyranny.

But the fact remains that once the goodness and badness of communism and democracy are accounted for, there is still a fundamental residual conflict stemming from radically opposing ideas about man's nature and the nature of government. For that reason, the claim of the communists that they are the real defenders of democracy and that theirs is the true form of democracy cannot be taken seriously. Neither must we lose sight of the real issue simply because the communists have rightly emphasized the importance of the material well-being of the people in a just society. Material well-being for all, we are finding, must become the concern of any just society, but the manner in which this is achieved determines whether we retain or lose the freedom of man. Again, Marxist theory holds that far from being the pawn of the state, the individual will be completely free from it since the state will "wither away" once the relations of production are altered according to the requirements

of communism. The fantastic proportions of this utopian vision hardly need any comment in light of the historic fact that under communism there is an ever-widening scope of governmental activity and power. It is one of the ironies of Russian experience that the jurist who most forcefully advocated the eventual withering away of the state, Professor Pashukanis, had to observe this irresistible growth in the power of the state up to the day when *he* withered away, apparently for developing this theory which endangered the success of the communist state.

Communism is a threat to democracy insofar as its interpretation of man represents a severe attack upon the faith of democracy. To the extent that this democratic faith was built upon a Christian view of man, communistic atheism is a direct repudiation of the sacrosanct character and dignity of the individual. No amount of emphasis upon the material welfare of the individual can ultimately make up for the loss he sustains to his dignity and meaning by this non-spiritual conception of his nature. The necessary consequence of this atheistic position is to view man as completely a product of his material environment. Stalin explains this view by writing: "Marx's philosophical materialism holds

that the world is by its very nature *material*, that the multifold phenomena of the world constitute different forms of matter in motion, that interconnection and interdependence of phenomena, as established by the dialectical method, are a law of the development of moving matter, and that the world develops in accordance with the laws of movement of matter and stands in no need of a 'universal spirit.'"¹ Thus Marxist materialism seeks to differentiate itself from any form of idealism or metaphysics.

To be sure, the highly developed *theory* of communism appears to be contradictory to its notions of determinism as well as idealism. That is, if history is going to unfold according to a fixed pattern which is determined by material conditions, what is the role of human thought and ideas? To be consistent, Marxists would have to say that ideas and the spiritual life have no independent existence, that they depend wholly upon material nature. "The source of formation of the spiritual life," writes Stalin, "the origin of social ideas, social thoughts, political views and political institutions . . . should . . . be sought for in the conditions of the material

¹ Joseph Stalin, *Dialectical and Historical Materialism*, Little Lenin Library, Vol. 25 (1940), p. 15.

life of society . . . of which these ideas, theories, views, etc., are the reflection.”² If ideas are the reflection of material conditions, how do the Marxists account for a change (revolution) in the material conditions of society? Marxists like to distinguish their materialism from “vulgar materialism” in order to make room for ideas which in turn will become effective in creating new material conditions. Indeed, Stalin points out that “the strength and vitality of Marxism-Leninism are derived from the fact that it relies upon an advance theory which correctly reflects the needs of development of the material life of society.”³ But it will be noted that these ideas are strictly derived from the material order. The power of ideas here is limited to “creating the conditions necessary for completely carrying out the urgent tasks of the material life of society.”⁴ But ideas are tied so closely to these material conditions that their function is, in the end, chiefly that of “accelerating,” not redirecting, the flow of events whose inner logic and causal relation are materialistically determined. If there is any spiritual aspect to life, it is to be explained in this mate-

² *Ibid.*, pp. 20-21.

³ *Ibid.*, p. 24.

⁴ *Ibid.*

rialistic context. The Judaeo-Christian view of man also holds that the material and spiritual aspects of life are related to each other. But the important point here is that Marxism would reduce the spiritual life to a reflex of the material conditions of life, thus making materialism primary. The Judaeo-Christian view, on the other hand, would account for many of the material conditions of society in terms of man's spiritual nature. The insights of the mind and the power of conscience stand over against the material realm, judging it, criticizing it and transforming it. The spiritual nature of man depends to some extent upon material conditions, but the spiritual is primary and the material secondary.

Atheistic materialism, furthermore, eliminates that concept of the origin of man and the nature of history wherein the central idea is the purpose of God. In place of the sovereignty of the love of God as the controlling factor in man's history, the communists put materialistic determinism. They believe that the unfolding of history is determined by the relations of the factors of production, that is, by the material conditions of society and by the fierce class struggle. The ultimate destiny of man is therefore achieved when the material nature of man is satisfied; history comes to its culmination

when in an uncoerced way men live together harmoniously producing and consuming the requirements of existence. But until this utopian climax is achieved, the state is a necessity by means of which the relations of production are forcibly rearranged to make possible the utopia. During this process, there is a ruthless disregard for the individual who might not agree with all elements of the master social plan. It is precisely at this point that the most fundamental conflict arises between communism and democracy, as we understand it, for it is just here that the dignity of man and his inalienable rights are at stake. Since the end being achieved in the communistic system is a materialistic one, there is no hesitation in submerging what we consider the spiritual ends of man to these material ends. In this ideological framework there is no provision for the protection of the individual against physical and moral abuse, nor is there any reason why a person's life may not be required of him if the success of the plan indicates such a course. The individual, according to communism, has no inherent inalienable rights which must be respected; such rights are at the heart of the democratic faith, and to reject them is to reject the democratic ideal.

The materialistic determinism and atheism of

communism also diminish the value of man insofar as this view depreciates the rational capacity of man. Lenin wrote that "The material, sensuously perceptible world to which we ourselves belong is the only reality. . . . Our consciousness and thinking, however supra-sensuous they may seem, are the product of a material, bodily organ, the brain. Matter is not a product of mind, but mind itself is merely the highest product of matter."⁵ We shall see presently what important consequences this notion has for the way the governmental process is conceived in communism, for to mistrust the human reason is to deny man the right of free thought and expression. If we agree that the rational capacity of man is his distinguishing characteristic, then to deny the fullest expression of his reason is to deny to man his personhood. If, furthermore, we believe that the personality of man is most adequately explained in terms of his relation to God, through which man's highest obligations and loyalties are defined and in terms of which his conscience is enlightened, then to deny this religious conception of man is to undermine the deepest root of the meaning of human personality. Communism denies

⁵ *Ibid.*, p. 16.

to man the status of person on both of these counts.

To depreciate the value and dignity of the individual and to deny him his inalienable rights is to make possible the final folly of communism, namely, to think that the "common good" is more than an abstraction when the good is denied to concrete individuals. To test any political system for its justice one needs only to observe how the individual or any minority is treated by the government. If certain rights are not guaranteed to the individual then there cannot be any common good; if at any time anybody can become the victim of the caprice of officialdom, the "common good" easily becomes the grounds for justifying the most arbitrary acts "for the good of the state."

What makes these ideas of communism a threat to democracy is the fact that in many quarters of the world they are being accepted as a perfectly valid view of man and history with the result that they are displacing those ideas without which democracy loses its creative compulsion.

CONFUSION IN THE WESTERN VIEW OF MAN

The attack upon democracy is not at all limited to the external threat from communistic quarters. The elements of the democratic faith are also

threatened from within, for in Western civilization there have been developing ideas which for all practical purposes produce the same effect as the communist ideology. It is to be remembered that Marx is a product of the West. Furthermore, it is the West that produced Thomas Hobbes whom historian Gooch calls "the father of modern totalitarianism." Marx himself refers to Hobbes as "the father of us all," meaning that Hobbes too sought to interpret man chiefly in materialistic terms and rejected the Christian view of man and history in developing his totalitarian political theory.

The policy of expediency which is so characteristic of communist procedure was, again, developed in its most highly refined form by the shrewd Italian Machievelli who conceived of ingenious ways of silencing the irritating voice of conscience. It was clearly not in defense of the democratic faith that the brilliant Nietzsche used the power of his mind. Instead he developed an aristocratic ethics culminating in the call for man to unleash his vital energy and take by sheer force the prize of his imagination undisturbed by the puny insights of the Christian's slave morality. Hegel, too, conceived a fateful idea when he wrote that the deepest meaning of the individual is found in the State. On his

shoulders the jurist Panunzio sought to build what he called a new faith, a faith in the primacy of the state wherein the individual has no rights but only duties to the state.

It is a fair question whether democracy requires the insights of the Judaeo-Christian tradition concerning the nature of man or whether there are alternative grounds upon which to rest the argument for democracy. We shall refer later to the rational grounds from which the Greeks could anticipate democracy, and to this needs to be added the historic fact that into the creation of Western democracy there flowed many streams besides the Judaeo-Christian one. There was the influence of the Renaissance, which expressed much of the insight of Stoicism, and the rationalism of the enlightenment to say nothing of the Deism of some of the Founding Fathers. The respect for individual initiative, judgment and freedom so characteristic of the scientific mind provided, and is today strongly urged as, a basis for democracy. To this it must be said that no one set of ideas can arrogate to itself the claim of being the sole efficient cause of democracy. And the course of the first sixteen centuries of Church history reminds us that Christianity does not in every instance feel that democracy is

a context in which it can or ought to exist. And surely Christianity, which is a religion, is not to be considered synonymous with democracy, which is a political system.

But it is interesting, for example, that most oriental philosophies of man have not lead to political democracy. Here there is a sense of the oneness of all persons, but this one-ness is achieved in a spiritual and non-rational continuum. The affairs of the world are not only lower than spiritual concerns, they are positively deceptive and do not justify active involvement and therefore the believers are led to renounce any attempt at a creative solution to the problems of history. Where this world is affirmed, it is, as in the case of Chinese civilization, on an admirable basis but not one which would lead to democracy as we know it. The basic ethical orientation is to the family and not to the larger community. Nor did Greek philosophy ever take too seriously the equality or freedom of man on a large scale; even Stoicism was chiefly aristocratic. Aristotle made much of the rational basis of human community and freedom but held that not everyone possessed an amount of reason sufficient to grant him equality or freedom. Plato, as we shall

see, was even more rigid in his discrimination between people with differing rational capacities.

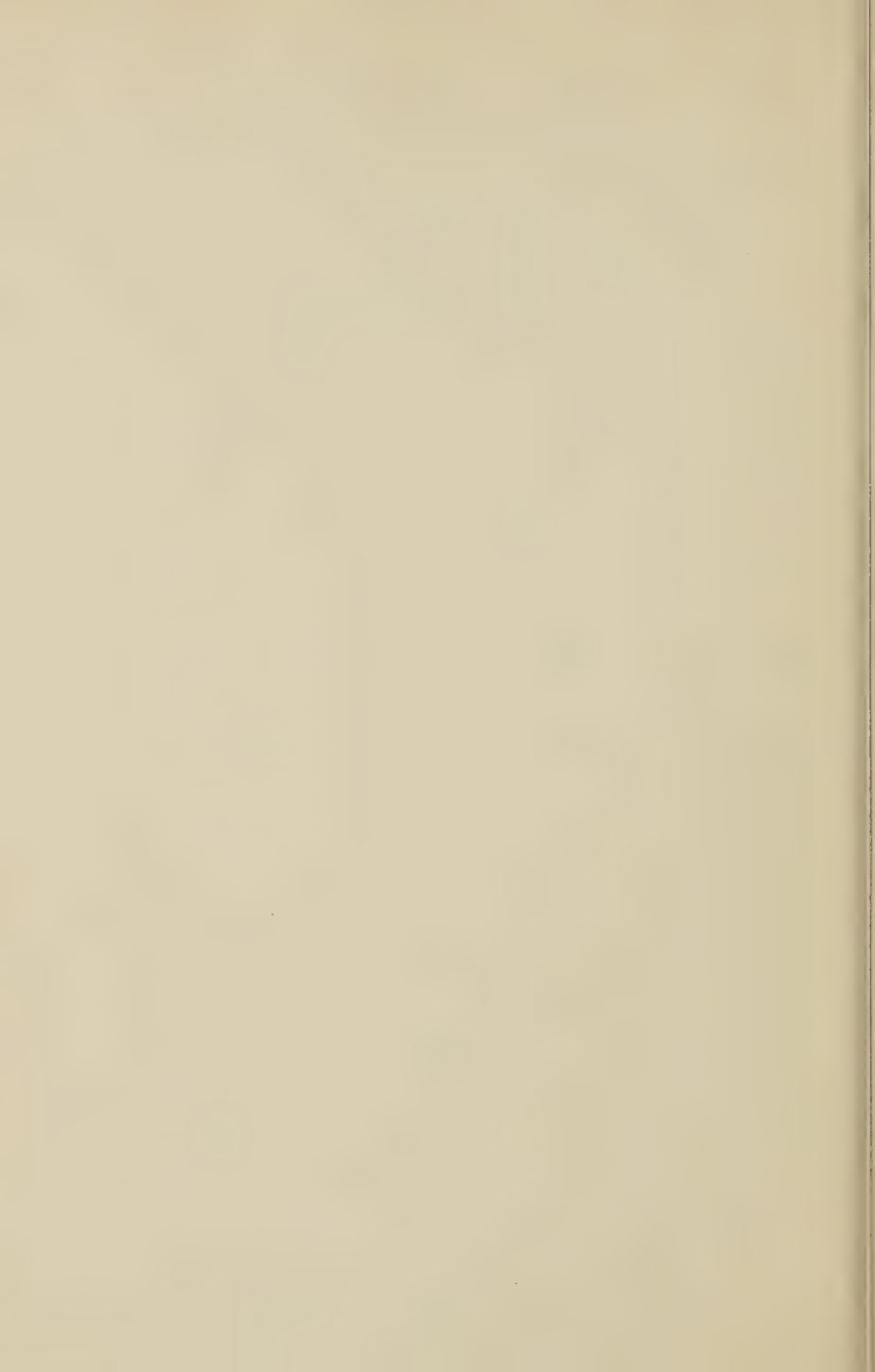
As for the naturalistic and scientific interpretations of man, there is also a basic infirmity which one meets at the very outset. For there is nothing in the scientific view of man which requires that every one should be protected in his dignity and equality; dignity and freedom which democracy protects are not derived empirically. Now scientists believe that men ought to be free and that their dignity should be safe-guarded; but this is not the product of scientific analysis—it is a faith. Moreover, the general drift of rigid scientific thought, (not characteristic of all scientists, however), has led to a point where on principle the scientist is left without any criterion by which he can argue for the democratic ideals. One of the chief characteristics of this rigid scientific mode of thought is that the concept of “purpose” is useless for science. Now if as a scientist one cannot speak of “purpose” then upon what basis do we begin to discuss the purpose of man or of society? If one feels that science has emancipated him from theology and the idea of God as the grounds for appraising the destiny of man, is he not back in the realm of metaphysics when he begins to speak about the dignity and the rights of

man? Here we are dealing with a non-empirical datum. The most Aristotle could determine empirically was that men are unequal. He could not by his analysis provide a cogent ground upon which to rest the freedom of all. One does not need to make too much of the fact that for science to deal with man on a crass empirical basis reduces man to an individual not unlike the individual atom or final particle which makes up the material with which the scientist works; as such, man can be manipulated with great effectiveness and with not too much qualm since the concept of purpose is no longer operative. There is nothing to stay the hand of the ruler for he is not violating any empirically determinable human purpose. To this it can be replied that resounding ideals about the sacrosanct nature of man did not, in history, prevent the perpetration of outrages against man. But it is one thing to commit such acts without calling them outrages and still another thing to be able to see them as such and decry them. It is for this reason that the Judaeo-Christian view of man is so profound in its realism as well as so suggestive of democracy, for on principle all men are equal, not through the decision of men but through the fact of their being equally endowed with being and purpose by God. In this

view it is *necessary* to recognize the dignity and worth of every single human being, and not some preferred class or group. It is well to remember at this point that the compelling urge toward democracy among the Puritans was not to achieve freedom and equality in the abstract, but rather to create those conditions under which men could achieve their spiritual ends.

As we consider, again, the communist preoccupation with atheism, materialism, determinism, and the primacy of the economic life, and realize that these ideas represent a significant segment of Western thought, we see that our problem is seriously aggravated. For as we seek to state the case for democracy we find that the spiritual investment which democracy requires is not readily available. We are deficient precisely where we seek to point out the weakness of the communist ideology. Western democracy, however, has a priceless redeeming feature, namely, its heritage; we possess even today the accumulated insights of those great creators of democracy who had a robust faith in the dignity of man and in his inalienable rights and who buttressed these insights with the illuminating and empowering faith in the religious interpretation of man. These ideas, fortunately, have been woven

into our institutional creeds and practices so that even though today we are weak in our reaffirmation of the insights which produced them, they are for the time being secure. But there is a serious danger that if our faith is not kindled once again, our freedoms and rights will most surely be lost.



III

The Role and Rule of Law

DEMOCRACY, in the second place, is a unique way of organizing political society. It is because the democratic faith exalts the individual that it requires this unique form of organization. In setting up the democratic order the chief consideration is to prevent political power and authority from gravitating to any one person or group where it cannot be challenged. That is why one of the features of democratic organization is the doctrine of the separation of powers. The power of government must be dispersed in such a way that it truly remains in the hands of the people, otherwise it would be idle to say that there is a government of the people. And the most effective instrument in democracy for keeping power domesticated is the rule of law. The separation of powers and the rule of law provide the political framework for the protection of the individual.

THE SUPREMACY OF LAW

One of the most distinctive features of democratic organization is the doctrine of the supremacy of law. The supremacy of law rests upon the conviction that it is the function of law to regulate the relations among men and between men and the government. But most important of all, it is believed that these relations between men and government are determined at essential points by the very nature of man. Since by nature men have certain rights, it is these rights which determine how they are to be related to each other and to the government. The fundamental law of the land is simply the articulate recognition of these rights of man; the law does not create them, for then to change the law is to change the right. In America, for example, the basic law, the constitution, with its delineation of the rights of citizens is the bulwark of the freedom of the individual. Not even the people through their share in the legislative power can divest themselves of their basic rights, for all acts of Congress are subject to judicial review finally by the highest court in the land which judges contested legislation by the highest law. Thus, in a democracy we live under a government of laws and not of men only, which means that the fundamental law of the land is bind-

ing upon all equally and that no person or group of persons can act with irresponsible disregard for these safe-guarding laws. In short, the fundamental law in a democracy is the specific expression of the ideals implicit in the democratic faith concerning man. It follows therefore that as long as there is a democracy, these ideals must be supreme, and this is what is meant by the supremacy of law.

Democracy has a unique form of organization, then, by virtue of the fact that political power is spread out among the people and is kept dispersed through the practice of the separation of powers and through the supremacy of law. Although this is a very simple statement of how democratic government is organized, the underlying philosophy of it is based on some rather important insights, to which Christianity has made a notable contribution.

CHRISTIANITY AND DEMOCRATIC ORDER

Although the Christian Church had always taught its profound conception of man's nature and destiny, it did not always see that this could involve the democratic form of government. Indeed, the Church in its own organization soon began to resemble the hierarchical government of the empire of which it was a part. At times in its history it

claimed supremacy over the emperor and at other times it sanctioned the rule of absolute monarchs. Furthermore, some kings justified their rule even when it was harsh on the religious ground that it may be the will of God to send a tyrant to punish the people for their sins. When he was the King of Scotland, James I used religious ideas of this kind to justify absolute monarchical prerogative. To those who argued with him that at the time of the coronation a contract was entered into by the king and the people, James replied that this was so, but added that the people did not have the right to decide whether the contract was broken for that would make them both party and judge to their own cause and this would violate the most sacred principle of law. Only God could judge the activities of the king, and, again, a wicked king is a sure sign of God's judgment upon a sinful people.

Neither the Roman Catholic Church nor the major leaders of the Reformation produced any consistent political theory which could become the basis for democratic government. The major religious bodies were state churches with the result that ultimate power both in the church and the state flowed down from the apex of the hierarchy

or the sovereign to the people instead of from the people upward to the leaders and rulers.

The real impact upon democratic thought and practice from Christian quarters came from the radical left-wing sects of the Reformation, such as the Congregationalists, Baptists, Independents, Quakers and others which grew out of the Calvinistic line. These sects had conceived a new meaning for the Christian fellowship which was quite different from the traditional church. For them the church meant the voluntary union of a group of believers who had consciously covenanted to live in spiritual fellowship together. They came together as equals before God. No one had any special authority over another's thoughts, for the supreme authority was the Bible. Furthermore, although it was believed that the Bible contained the Word of God, each individual had the right to interpret this Word according to his own spiritual enlightenment. Indeed this fellowship was one in which equals came freely searching for the truth and not one where the full truth was presumed to have been completely found. This is what was meant by the priesthood of all believers, for now each person was in a real sense responsible for his own spiritual well-being.

It was the transfer by analogy of the form of organization developed in this kind of Christian fellowship which laid the foundation for the early democratic structure, for the people sought to develop civil government upon the same lines as their religious organization. It followed that all men were considered equals, and that therefore they must all have some voice in the government. The town meeting was the natural outgrowth of this notion. Furthermore, no political dogma was accepted as binding upon all, for the search for truth in political life is similar to that in the religious sphere; it must be mutually sought for and not arbitrarily imposed. Leaders in the religious community were chosen by the people for a stated period of time. Similarly, in the civil government the leaders were chosen by the people who had the right to recall them whenever they abused the power given them.

The early democratic community believed not only in law but in the supremacy of natural law. The Christian Church had long advocated the inviolability of the natural law, even going so far in the Middle Ages as to say that if the positive law of any government is contrary to the natural law, it is not to be obeyed, for in that case it is no longer

a law but a perversion of law. Augustine and Aquinas had taken up the Stoic ideas of natural law, restated them in Christian terms, and permanently fixed these ideas in the stream of Western political and legal thought. This concept of natural law simply meant that the law of God is supreme. In his debates with King James I Sir Edward Coke, Lord Chief Justice of the Realm, argued against James's claims to unlimited prerogative by saying that "the King is under God and the law." And even though Coke was a staunch defender of the absolute power of Parliament, in a famous case he held an act of this legislative body null and void because it was contrary to common right and reason, a form of natural law argument. Following the general line set down by Coke, the early American judges held that law is found and not made, attempting in this way to prevent the arbitrary acts of government from presuming to have the force of law. Such ideas about the supremacy of natural law grew out of the religious notion that the true law, after which positive law should be patterned, is set down by the will of God and is available to the reason of man. One of the influential documents which informed men's minds upon this subject was the French Huguenot treatise *Vindiciae Contra*

Tyrannos in which the question is raised whether the king's law is to be obeyed if it conflicts with the law of god as revealed in the Bible, to which a negative answer is given. These ideas of natural law became central in the revolutionary period for they were relied upon to justify morally the action taken by the colonies. They also became indispensable for supporting the doctrine of the supremacy of law.

Recalling that Lord Acton said that the Protestant sects were the most potent agency ever brought to bear upon democratic history, we now see that these sects provided the most essential elements for the democratic form of organization. For it was from them that there developed a mistrust of religious and political dogmas and a repudiation of the claim to absolute power which usually accompanies such dogmas. It is here too that, as a matter of principle, government became the function of equal persons, where there is a sharing of power as well as free debate and criticism of governmental policy. To be sure, this was not a Christian utopia. John Cotton even doubted that God meant for there to be a democracy, for "if every one governs, who will be governed?" And it was not long before religious uniformity and conformity became the re-

quirement for participating in the government.¹ But in spite of this, the main principles for democratic organization were securely framed and in the long run prevailed against the forces that would deform them.

THE COMMUNIST REVOLT AGAINST LAW

From communism there has come a direct attack upon these principles of democratic organization. At the center of this attack is the communist doctrine of the infallibility of its leaders. They are in possession of absolute truth, this truth being the essence of the "party line." To make such a fantastic claim means that there is no basis for free discussion or debate, since there is now nothing to discuss or debate. Furthermore, this truth is subject to no higher conception of truth, no objective canons of right. Accordingly, truth takes on a new meaning, since it becomes what the officials say it is. In any situation, truth is a very fluid thing and can change quite rapidly from one day to the next, to the utter distress of subordinates who must keep abreast of the latest "truth" if they are to remain in political favor. This is where human in-

¹ See Chapter Five.

tegrity and dignity begin to decompose, for to follow this procedure is to abdicate the intellect. The final horror of this claim to infallibility is that it unavoidably results in a claim to absolute power. Truth and error do not have the same rights, and when infallible truth is presumptuously claimed, there is a ruthless purging of those who are in ideological error.

A necessary consequence of this conception of truth is the one-party system, for this is the most logical way of uniting both ideology and power. This is also the way of snuffing out freedom of thought and expression. Instead of the democratic separation and diffusion of political power, based upon the conviction that truth is best found through healthy discussion, communism creates a gigantic monopoly of power controlled by a few in the infallible Kremlin.

The most serious attack upon democratic organization comes from the communist conception of the law. Marxian theory teaches that there is nothing very profound behind the bourgeois conception of law, that in fact law is nothing but the expression of the will of the economically dominant class. Law is seen as a tool and a power-mechanism whereby the rich protect what they have and justify their

exploitive procedures against the poor. This is the reason the Russian jurist Gintsburg wrote that "Marxism declares a merciless war against the bourgeois legal concepts . . ." ² Engels said that "the jurist imagines that he is operating with *a priori* principles whereas they are really only economic reflexes." ³ Marx's own theory was that "society is not based upon law; this is a juridical fiction. Just the reverse is the truth. Law rests upon society; it must be the expression of the general interests that spring from the material production of a given society" or as he says in the Manifesto, "your jurisprudence is but the will of your class made into a law for all, a will whose essential character and direction are determined by the conditions of existence of your class." ⁴ Justice is ridiculed as the product of middle class morality, and all the claims of Western law as the protector of the human rights of all are thereby rejected.

During the early revolutionary period the Russian communists took Marxian theory literally and elimi-

² Vladimir Gsovski, "The Soviet Concept of Law," VII, *Fordham Law Review*, (1938), p. 4.

³ *Ibid.*, p. 5.

⁴ Karl Marx, *Communist Manifesto*, Henry Regnery Co. (1950), p. 28.

nated law from their governmental policy. Their official spokesmen said that it was not the intention of the communists to replace bourgeois law with Soviet law, but that law, like religion, must be stamped out. Pashukanis argued that "the withering away of the categories of bourgeois law (exactly the categories, and not of this or that particular rule) can under no circumstances mean their replacement by some new categories of proletarian law. . . . The withering away of law in general, that is, the gradual disappearance of the juridical element from human relations" ⁵ is what communism seeks to achieve. In sharper terms Goichbarg wrote that "we refuse to see in law an idea useful for the working class . . . Religion and law are ideologies of the exploiting classes . . . At the present time (1922) we have to combat the juridical ideology even more than the religious." ⁶ This radical conception of law led to the denial of the concept of individual rights for as Krylenko said, "in all instances the interests of the whole, the duty to safeguard the social order, are to be the decisive criteria." ⁷ This, of course, was consistent with

⁵ In Gsovski, *loc. cit.*, pp. 11-12.

⁶ *Ibid.*, p. 12.

⁷ *Ibid.*

Marxian theory for not only law but the state itself was supposed to wither away. If law is simply the will of the economically dominant class, and if the revolution produces a classless society, then by definition there is no need for law for then there is no particular class which needs law to protect itself.

The illusory character of this doctrine is obvious in light of the subsequent development of a Soviet legal system. Russian legal theory and practice have gone through several stages of development from the time of the revolutionary days to the present, but it was not long before some form of law was reinstated. Having turned against the great traditions of Western Law the Soviet jurists developed a shocking concept of legal procedure. "The soviet courts," wrote Gintsburg, "were designed to render specific 'class justice' and be guided in that by the communist party. . . . The courts, like the organs of administration, are called upon to carry out the policy of the soviet government and communist party as well as the Marx-Lenin doctrine." • This philosophy of law was actually written into a statute for the purpose of instructing the members of the court. It read: "When passing a decision

• *Ibid.*

upon a case, the People's Court shall apply the decrees of the Workers' and Peasants' Government, and in default of a decree directly bearing on the case . . . the court shall be guided by the socialist conception of law. Note: No reference can be made in the decision to the laws of the overthrown governments." ⁹ The most significant item in this statute is its reference to the "decrees" of the government; for in the place of law as we know it, there was substituted rule by decree, which means the elimination of the "rule of law." The soviet society had become a dictatorship of the proletariat with the communist party being the instrument of that dictatorship which, according to Lenin, is a "power unrestrained by any law and based upon force and not law." ¹⁰

As the soviet government developed, the system of law had to be refined more and more but it never outgrew Gintsburg's characterization that "the Soviet law corresponds to the interests of the proletariat organized into a ruling class." ¹¹ And even though law gradually played a more dominant role in society, it was based upon the fatal infirmity

⁹ *Ibid.*, p. 20.

¹⁰ *Ibid.*, pp. 17-18.

¹¹ *Ibid.*, p. 3.

that law does not rest upon morality and that both law and morality are extremely flexible. "We need the utmost elasticity," said Pashukanis, and so "we do not have a system of proletarian law."¹² Rudolph Schlesinger has raised the important question whether with this theory of law the Soviet government can consider international law as real "law" or whether its agreements with other countries are temporary compromises.¹³ The Soviet system of law is really not what in the West is generally meant by that term, for Russian law is made up mainly of administrative pronouncements. The dictates of the officials of the government have the force of law. And these dictates are not bound or limited by any conception of human rights; they are law because and insofar as they are commands which call for that kind of conduct which is believed to aid in the realization of the socialist revolution. The success of the revolution therefore becomes the primary end and everything else, including principles and persons, are sacrificed as the means. There is no such thing, then, as the supremacy of law, for communism

¹² *Ibid.*, p. 31.

¹³ "Recent Developments in Soviet Legal Theory," *The Modern Law Review*, Vol. VI, Nos. 1 and 2, December 1942. See also R. Schlesinger, *Soviet Legal Theory*, (1945), *passim*.

is a government of men, not of laws; it is a system where law is created as a matter of bureaucratic expediency.

THE BREAKDOWN OF LEGAL PHILOSOPHY IN THE WEST

Along with this external threat to the democratic form of organization has also come an internal attack by way of a growth of ideas in Western civilization which equally undermine the fundamental concept of law as originally conceived by democracy. We have already mentioned the totalitarian tendencies of Thomas Hobbes. And in this connection it must be pointed out that for all practical purposes his notion of law and justice is the one which has been gaining ever wider acceptance. He wrote that "laws are the rules of just and unjust; nothing being reputed unjust, that is not contrary to some law." ¹⁴ Laws cannot, he said, be subject to any anterior moral standard, for the Law creates, and is, that standard. Carrying out the implicit logic of this point of view, Hobbes' countryman Jeremy Bentham said that the law of the land is simply the sum total of statutes on the books. There is no such thing as human rights prior to their creation by the positive

¹⁴ *Leviathan*, xxvi.

law of the state. He scoffed at the notion of natural law and its corollary natural rights. From the natural law, he said with consummate sarcasm, there can come only a bastard brood of monsters and not legitimate rights. "All this talk about nature, natural rights, natural justice and injustice proves two things only, the heat of passion, and the darkness of understanding." . . . "Property the creature of law?—Oh, no—Why not?—because if it were the law that gave everything, the law might take away everything: if everything were given by law, so might everything be taken away. The case is that in a society in any degree civilized, all the rights a man can have, all the expectation he can entertain of enjoying anything, that is derived solely from the law. . . . Till law existed, property could scarcely be said to exist. Property and law were born together and die together."¹⁵

There has been a gradual development of the notion that the law has no real concern for moral and ethical values. John Chipman Gray considered this development away from a moral concern the great gain in jurisprudence during the last century,

¹⁵ Jeremy Bentham, *The Limits of Jurisprudence Defined*, (Everett ed. 1945), p. 84.

for he argued that law "is not that which is in accordance with religion, or nature or morality; it is not that which ought to be, but that which is."¹⁶ In America the most influential jurist who colored the thinking of moral legal minds than any one else was Oliver Wendell Holmes, Jr. who defined law as the will of the economically dominant class in society. He could also say that law is simply what the courts do. For him the doctrine of natural law or natural rights was too presumptuous a claim to be admitted. Nor would he accept the notion that there are moral limitations to laws, for to him morals were simply vague generalizations expressed in terms of emotion. To him the *ultima ratio* was force. Holmes's philosophical skepticism is familiar enough, although it is worth pointing out that his judicial self-control was not so much a matter of procedural propriety as it was uncertainty. "I enforce," he said, "whatever Constitutional laws Congress or anybody sees fit to pass—and do it in good faith to the best of my ability. . . . I am so skeptical as to our knowledge of the goodness or badness of laws that I have no practical criticism except what the crowd

¹⁶ Gray, *The Nature and the Sources of the Law*, (1921), p. 94.

wants.”¹⁷ Such an attitude, if consistently held, and happily Holmes was not consistent here, could have but one effect, for as Holmes’s great friend Sir Frederick Pollock wrote in reply to this comment: “If you deny that any principles of conduct at all are common to and admitted by all men who try to behave reasonably—well, I don’t see how you can have any ethics or any ethical background for law.”¹⁸ Nor is it surprising that Holmes conceived of the nature of law as a regime of force, for whenever the moral dimension is eliminated from law what is frequently left is nothing more than coercion.

To be sure, skepticism is not a uniformly undesirable attitude. Important values have been preserved in our society precisely through the reluctance of judges to speak in terms of absolutes. Justice Learned Hand had occasion to remark in a significant decision that freedom of speech “rests upon a skepticism as to all political orthodoxy, upon a belief that there are no impregnable political absolutes and that a flux of tentative doctrines is preferable to any authoritative creed.”¹⁹ But when

¹⁷ *Holmes—Pollock Letters*, I, (1941), p. 163.

¹⁸ *Ibid.*, p. 275.

¹⁹ *United States v. Dennis*, 183 D. 2d, (2d Cir. 1950), pp. 201, 207.

this case moved up from the Court of Appeals to the United States Supreme Court, Chief Justice Vinson went considerably farther in expressing the theme of intellectual uncertainty than Justice Hand's remark on "political orthodoxy" and "political absolutes" were meant to encompass. "Nothing is more certain in modern society," said the Chief Justice, "than the principle that there are no absolutes, that a name, a phrase, a standard has meaning only when associated with the considerations which gave birth to the nomenclature. To those who would paralyze our government in the face of impending threat by encasing it in a semantic strait jacket we must reply that all concepts are relative."²⁰

The philosophers have done their share in bringing about this skepticism in the judicial process. To the extent that judges depend upon a general knowledge of nature and its laws to inform them about the nature of law as applied to human conduct, the denial of any absolute laws in nature cannot avoid producing an unsettling effect upon the judges' conception of the nature of the laws with which they are concerned. Chief Justice Vin-

²⁰ *Dennis v. United States*, 341 U.S. 494, 508 (1951).

son's dictum that "all concepts are relative" is qualitatively no more horrendous than Alfred North Whitehead's statement that "since all laws of nature depend on the individual character of the things constituting nature, as the things change, then correspondingly the laws will change. Thus the conception of the universe as evolving subject to fixed eternal laws regulating all behaviour should be abandoned."²¹ John Dewey has stated in forceful terms that the very health of the law depends upon ridding legal reasoning of all universal principles: ". . . the sanctification of ready-made antecedent universal principles as methods of thinking is the chief obstacle to the kind of thinking which is the indispensable prerequisite of steady, secure and intelligent social reforms in general and social advance by means of law in particular. If this be so, infiltration into law of a more experimental and flexible logic is a social as well as an intellectual need."²² The effect of such philosophical notions has been to concentrate the attention of the judges upon the particular statue and to deflect it from principles

²¹ *Adventures of Ideas*, (1933) p. 143.

²² "Logical Method and Law," 10 *Cornell Law Quarterly*, (1924), pp. 17, 27.

of morals and ethics. The concept of right and wrong gives way to the notion of lawful or unlawful. And in extreme cases, although with increasing frequency, the right and lawful are identified as the same, the "right" being made so by the law rather than the law being considered "just" because of its conformity with "right."

One of the most extensive contemporary treatments of the nature of law states that "the concept of law has no moral connotation whatsoever."²³ Kelsen means by this statement just what Hobbes meant, namely, that the validity of laws rests not on their conformity to moral principles but upon proper enactment. And again, to limit the area of legitimate law to properly legislated statutes rests on the assumption that laws cannot depend for their validity upon moral correctness since there are no pre-existing moral norms: "There are no *mala in se*, there are only *mala prohibita*, for a behaviour is a *malum* only if it is *prohibitum*."²⁴ Thus, the general drift of Western legal philosophy during the first half of this century has been toward a way of thinking which resembles at crucial points communist legal doctrine.

²³ Hans Kelsen, *General Theory of Law and State*, (1945), p. 5.

²⁴ *Ibid.*, p. 52.

We need to be reminded that the concept of law as resting on morals is one of the key elements in democracy, and that the struggle for democracy was also a struggle to shape the law to fit the contours or moral conviction. Dean Pound has said that "the attempt to make law and morals identical by covering the whole field of morals with legal precepts, and by conforming existing precepts to the requirements of a reasoned system of morals, made the modern law."²⁵ In a similar generalization, Justice Cardozo held that "the scope of legal duty has expanded in obedience to the urge of morals."²⁶ The law has never been able fully to dissociate itself from the notion that there is a difference between an arbitrary command and a law. For Plato every law had to have two parts, the substantive part and the preamble, the preamble providing the rational and moral justification of the substance. It was this moral defensibility of the law which differentiated it from an arbitrary command.²⁷ All the varieties of natural law stemming from the Stoic theory of law made the rational, moral and ultimately theological

²⁵ Roscoe Pound, *Law and Morals*, (1926), p. 31.

²⁶ Benjamin Cardozo, *The Paradoxes of Legal Science*, (1928), p. 46.

²⁷ Cf. Plato's *Laws*, 722D-723B (Jowett ed. 1892).

element the foundation of law. Justice Cardozo revealed how the moral element inevitably enters into the judicial process when he wrote: "The judge stretches a point here in response to a moral urge, or makes a new application of a precedent there. Before long a new tradition has arisen. Duties that had been conceived of as moral only, without other human sanction than the opinion of society, are found to be such that they may effectively be subjected to another form of sanction, the power of society. The moral norm and the jural have been brought together, and are one."²⁸ And, again, he wrote, "What we are seeking is not merely the justice that one receives when his rights and duties are determined by the law as it is: what we are seeking is the justice to which law in its making should conform."²⁹

There can be no health in a democracy where there is no acceptance of the supremacy of law and where that law is not interpreted in terms of the highest moral insights regarding man's nature. The democratic form of organization depends upon this higher law for only in terms of it can there be a

²⁸ *Op. cit.*, p. 43.

²⁹ Cardozo, *The Growth of the Law*, (1924), p. 81.

check on the inevitable rise of the monopoly of political power. Men must once again re-think the meaning of the religious basis of the moral law as it applies to the actual system of law by which men are governed.

IV

Democracy as a Moral Enterprise

THE THIRD and most creative aspect of democracy is its moral thrust, for democracy is a moral enterprise.

In a society which has repudiated all claims to infallibility regarding the possession of full and absolute truth, there is a continual unfolding of this truth as men understand it more fully. As enlightenment increases, so does the tension in the conscience of men, for then the contrast between what is and what ought to be becomes more painfully clear. There was a time when people lived under the rule of absolute monarchs without serious qualms, but the day came when in the minds of men such an arrangement became intolerable and in terms of a conception of what ought to be they forcibly separated themselves from such a rule and achieved "the separate and equal station to which the laws of nature and of nature's God entitle them."

It has been the growing sentiment within democracy that the rights of man are far broader than the right to vote, that "the laws of nature and of nature's God entitle" men to more than political freedom. In the last decades men have begun to emphasize the need for adding to political democracy the realms of social democracy and economic democracy. The great controversies on social issues and policy in the democracies revolve around the growing conviction that the freedom and dignity of man can be abrogated in more ways than through political tyranny alone. Even within a political democracy there are deep tensions caused by social and economic inequality. The generating force of this tension is our announced ideals regarding the freedom, equality and dignity of man. The fact about men is that they are in many ways unequal: they are unequal in physical strength, intellectual power, color and in talents. Do these inequalities outweigh the basic equalities in men? The contrast between the *fact* of inequality and the *ideal* of equality is at the heart of this problem. Our democracy is not intent upon making everybody absolutely equal; this is the kind of egalitarianism which would do violence not only to the facts of life and common sense but also to the meaning of democracy. But the great de-

bate in democracy has focused upon the question whether differences among men are more significant in deciding social policy than their similarities. This is essentially a moral question because it involves man's sense of duty to his fellow man.

MORAL SENSITIVITY IN DEMOCRACY

The urge to achieve a morally defensible conception of freedom, equality and human dignity has been felt in every major aspect of American society. From the beginning we have had to grapple with the moral dimension of slavery and then with the appalling fact of child-labor, the persistent movement toward collective bargaining, the novel doctrine of a minimum wage and the constant concern over civil liberties. Each one of these problems has provoked a deep diversity of opinion and even now there is no unanimous agreement as to what constitutes the morally correct solution to them. The current solutions to these controversies have come through decisions of the Supreme Court, that is, through the process of law. Morality, we all know, cannot be legislated. Attitudes cannot be forced. Morality is essentially an internal process which leads a person to act freely out of his own convictions. Law implies external and coercive compul-

sion. Laws can also represent the organized selfishness of a segment of our society. Yet there is a connection in a democracy between law and morals; law does not become the substitute for morals, but law embodies the moral sentiment of the people. Moreover, our laws are frequently the detailed elaboration of the ideals in our democratic faith as well as the further elucidation of the Constitution. The fact that law is employed to solve these social problems indicates that a sufficiently large segment of public opinion has been aroused and mobilized around certain moral ideals. That law is *necessary* means that these moral ideals would be violated on a large scale if there were no restraining power. But our chief concern here is not solely with law as with the moral concern behind it. For the important fact is that in our democracy there is a constant large-scale debate over questions involving the morality of our social arrangements and behaviour. The ideals of our democratic faith raise moral questions about the actual conditions in our society. To say that democracy is a moral enterprise means that in a democracy men are constantly striving to implement their ever-increasing understanding of these ideals. The wide scope of this moral enterprise is illustrated by the following cases.

It is almost unbelievable today that democratic societies once permitted the exploitation of children. The Anglo-Saxon world had for centuries expressed the sentiment that man's greatest heritage is freedom without realizing that child-labor is a dark and tragic violation of liberty and human dignity. The moral urge to eliminate this practice inevitably developed, but by slow stages. Dicey writes: "That English children were held in bondage, that to perform their task-work they were compelled under cruel punishment to walk as much as twenty miles a day, that their day's work lasted from twelve to sixteen hours, were the facts and allegations which aroused the pity and the wrath of the nation."¹ In 1836, the humanitarian instinct of the free-trade advocate Cobden led him to say: "As respects the right and justice by which young persons ought to be protected from excessive labour, my mind has ever been decided. . . . In my opinion, and I hope to see the day when such a feeling is universal, no child ought to be put to work in a cotton-mill at all so early as the age of thirteen years."² In America a similar sentiment developed and in 1916 Congress finally sought to curb this practice by

¹ A. C. Dicey, *Law and Public Opinion in England*, p. 220.

² *Ibid.*, p. 221.

prohibiting articles produced in factories where child-labor was used from entering the channels of interstate commerce. But the constitutionality of this act was questioned, and the grounds upon which it was questioned is important to notice for it throws some light on the way the moral enterprise of democracy must accommodate itself to other aspects of our democratic structure before it can become effective. It was held that Congress did not have the power to outlaw child-labor because such a law, while morally defensible, was an improper use of the federal government's power. In the opinion which declared the law unconstitutional (in 1918) Justice Day wrote: "We have neither authority nor disposition to question the motive of Congress in enacting this legislation. The purposes intended must be attained consistently with Constitutional limitations, and not by an invasion of the powers of the states."³ It is interesting that in this controversy over the child-labor law, the moral issue soon fell into the background and the question of states rights as well as individual economic rights became more important. It was Justice Holmes, however, who in a classic dissent retorted that "if

³ *Hammer v. Dagenhart*, 247 U.S. 251, (1918), p. 276.

there is any matter upon which civilized countries have agreed, . . . it is the evil of premature and excessive child labor. I should have thought that if we were to introduce our moral conceptions where in my opinion they do not belong, this was pre-eminently a case for upholding the exercise of all its powers by the United States.”⁴ The attempt to abolish child-labor in 1918 failed but the moral sentiments beneath the attempt to correct the conditions of labor were powerful and continued to break out in other legislation. It was as recently as 1941 that a child-labor law was finally upheld by the United States Supreme Court.

The relation between labor and industry posed many grave moral questions for our democratic society. One of these questions was whether the democratic concept of freedom included the freedom for labor to organize into unions. The matter became serious because some industries, chiefly the railroads, had required laborers to refrain from joining a union as a condition of their employment. Congress and some states passed laws making it illegal for the companies to require the employee to sign a contract in which he promised not to join a union.

⁴ *Ibid.*, pp. 279-280.

But in two familiar cases, the Supreme Court held these laws to be unconstitutional because they had the effect of violating the employer's constitutional right of liberty and property. Liberty was here interpreted as freedom of contract. The question which ultimately had to be decided was whether the worker's freedom to join a union is independent of the employer's freedom of contract; that is, whether these two freedoms could coexist. In 1908 ⁵ and in 1914 ⁶ the Court decided that the employer's freedom of contract included his right to require non-union status of his employees. Here again Justice Holmes dissented on the grounds that for him freedom of contract makes sense only if both parties to a contract are on equal footing. But by 1937 the Court had taken a different view and, regarding collective bargaining, Chief Justice Hughes said: "That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers. Discrimination and coercion to prevent the free exercise of the right to self-organization and repre-

⁵ *Adair v. United States*, 208 U.S. 161, (1908).

⁶ *Coppage v. Kansas*, 236 U.S. 1, (1915).

sentation is a proper subject for condemnation by proper legislative authority.”⁷ And in 1942, it finally became unlawful for an employer to make a worker agree not to join a union as a condition of employment. But there is a very significant sequel to this reversal of judicial opinion. It is that the opinion of the labor movement had also reversed itself. For as it grew in size and power, it began to demand of industry the identical kind of agreement it had earlier denounced with such moral fury. The “closed shop,” where only union members can work, is as much an abridgement of individual freedom of contract as were the “yellow dog” contracts. It cannot be emphasized too much that the moral indignation of a group or organization in one situation does not mean that it is incapable of its own brand of immorality in other situations.

The question of minimum wages raised a new moral problem for our democracy. Apart from considerations of economics, the question here was whether the moral claim of a citizen to a decent standard of living is on a higher plane than the moral claim of an owner to his property. The District of Columbia had passed a law “to protect

⁷ *Labor Board v. Jones and Laughlin*, 301 U.S. (1937), p. 33.

women and minors of the District from conditions detrimental to their health and morals, resulting from wages which are inadequate to maintain decent standards of living . . .”⁸ This law was held unconstitutional by the Supreme Court and in his majority opinion Justice Sutherland made the important point that “the ethical right of every worker, man or woman, to a living wage may be conceded . . . but the fallacy of the method of attaining it is that it assumes that every employer is bound in all events to furnish it. The moral requirement implicit in every contract of employment, viz., that the amount to be paid and the service to be rendered shall bear to each other some relation of just equivalence, is completely ignored.”⁹ The assumption that labor is always paid a just equivalence in the normal employment contract was not dealt with in detail, for the over-riding consideration was the freedom with which both the employer and employee should be able to enter into agreements. To enforce a minimum wage law, it was felt, would have the effect of taking property from an employer without due process of law. The doctrines of free-

⁸ *Adkins v. Childrens Hospital*, 261 U.S. 525, (1923), p. 540.

⁹ *Ibid.*, p. 558.

dom of contract and private property thus represented established values which the moral pressure to set up minimum wages could not in this case modify. This was the lingering influence of the kind of reasoning Justice Peckham used when he described statutes regulating hours of work as "meddlesome interferences with the rights of the individual."¹⁰ A little over a decade after the District of Columbia minimum wage law was declared void, a similar law, passed by the State of New York, was also struck down by the high Court but not without a vigorous dissent by Chief Justice Hughes and Justice Stone who based their dissent on the grounds that "a wage is not always the resultant of free bargaining between employers and employees; that it may be forced upon employees by their economic necessities and upon employers by the most ruthless of their competitors."¹¹ Moreover, the serious consequences to the structure of society of insufficient income made the ensuing problems of poverty, subsistence, health and morals a legitimate concern of the larger community and could not be left solely to the individual to solve.

¹⁰ *Lochner v. New York*, 198 U.S. 45, (1905), p. 61.

¹¹ *Morehead v. New York*, 298 U.S. 587, (1935), p. 635.

By 1937 these dissenting views became dominant and in the case of *West Coast Hotel v. Parrish*¹² a state of Washington minimum wage law was upheld. A new interpretation had thus been achieved of the concept of freedom of contract and freedom of property. But was this really such a novel idea? Over one hundred years ago Chief Justice Shaw of the Massachusetts Supreme Court delivered an opinion in which he expressed his philosophy of the use of private property. "We think it a settled principle," he said, "growing out of the nature of well ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that its use may be so regulated, that its use shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the right of the community. All property in this Commonwealth . . . is derived directly or indirectly from the Government, and held subject to those general regulations, which are necessary to the common good and general welfare."¹³ It was the elaboration of this philosophy which emerged

¹² 300 U.S. 379 (1937).

¹³ Cited in *Holden v. Hardy*, 169 U.S. 366 (1897), pp. 392-393.

in the United States Supreme Court in the 1930's when the above-mentioned cases of minimum wage and collective bargaining were the center of social controversy.

Added to these cases were the ones which contested the right of the Federal Government to use public moneys for welfare purposes, as, for example, in the matter of Social Security. The moral question here was whether society has a collective responsibility to help the unemployed or whether an individual must assume the risk by himself. When the Social Security Act was upheld in 1937, Justice Cardozo replied to objections by writing: "It is too late today for the argument to be heard with tolerance that in a crisis so extreme the use of moneys of the nation to relieve the unemployed and their dependents is a use for any purpose narrower than the promotion of general welfare." Moreover, he added, "the *parens patriae* has many reasons—fiscal and economic as well as social and moral—for planning to mitigate disasters that bring burdens in their train."¹⁴

Still another aspect of freedom is involved when the freedoms implied in civil liberties clash with the

¹⁴ *Steward Machine Co. v. Davis*, 301 U.S. 548, (1937), p. 586.

freedom implied in the concept of private property. What is the relation between personal rights and the rights growing out of the ownership of private property? Some idea of how our democratic thought has sought to answer this question is illustrated by a series of comments by our judges on this question. The problem was posed in graphic form in 1945 when a Jehovah's Witness sought to sell religious literature in a company-owned town where the owners of the town prohibited this practice without their permission. The owners of the town argued that while such a practice was permissible on a public street corner, it could be restricted on private property. But Justice Black, in the majority opinion, held that "when we balance the Constitutional rights of owners of property against those of the people to enjoy freedom of press and religion, as we must here, we remain mindful of the fact that the latter occupy a preferred position. As we have stated before, the right to exercise the liberties safeguarded by the First Amendment 'lies at the foundation of free government'." ¹⁵ The phrase "preferred position" does not, of course, appear in the Constitution but is the result of "appraisal," judicial interpre-

¹⁵ *Marsh v. Alabama*, 326 U.S. 501, 509 (1946).

tation and moral concern. And, as Justice Frankfurter has pointed out, the philosophy underlying this phrase was developed in the opinions of Justice Holmes "for [whom] the right to search for truth was of a different order than some transient economic dogma," and so Holmes "was far more ready to find legislative invasion [of the Constitution] where free inquiry was involved than in the debatable area of economics."¹⁶ Furthermore, "those liberties of the individual which history has attested as the indispensable conditions of an open as against a closed society come to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements."¹⁷ Brandeis held many years earlier that "where only property rights are involved, mere postponement of (a) judicial enquiry is not a denial of due process, if the opportunity for ultimate judicial determination of the liability is adequate."¹⁸ Justice Rutledge implied that such a priority of values is the underlying philosophy of our law when, in a concurring opinion,

¹⁶ *Kovacs v. Cooper*, 336 U.S. 77, 95, (1949).

¹⁷ *Ibid.*

¹⁸ *Phillips v. Commissioner*, 283 U.S. 589, (1931).

he wrote: "Since in these cases the rights involved are rights of property, not of personal life or liberty, as in criminal proceedings the consequences, though serious, are not of the same moment under our system, as appears from the fact they are not secured by the same procedural protections in trial. It is in this respect perhaps that our basic law, following the common law, most clearly places the rights of life and liberty above those of property."¹⁹ Justice Jackson made the same point when he said, again in a concurring opinion, that "property can have no more dangerous, even if unwitting, enemy than one who makes its possession a pretext for unequal or exclusive civil rights."²⁰ Though these opinions provide us no sustained analysis of the reason, other than Constitutional, for the priority of civil liberties, there is little doubt that such preferential treatment of civil rights grows out of a conviction about the nature of democracy and the status of competing values. Faced with conflicting values, we have to decide on the "preferred position," and this is a crucial element in the moral enterprise.

The underlying convictions about the moral na-

¹⁹ *Bowles v. Willingham*, 321 U.S. 503, 525, (1944).

²⁰ *Edwards v. California*, 314 U.S. 160, 185, (1941).

ture of democracy made the status of the Negro a disturbing problem to no less a man than Thomas Jefferson. His own sentiments about democracy included a vigorous affirmation about the dignity and equality of men. Believing these things about man, he could not conscientiously justify slavery. He had to admit therefore that "the man in whose favor no laws of property exist, probably feels himself less bound to respect those made in favor of others." Why, in other words, should the Negro respect law and property when the law does not protect him or grant him property? "When arguing for ourselves," said Jefferson, "we lay it down as a fundamental, that laws, to be just, must give a reciprocation of right; that without this, they are mere arbitrary rules of conduct, founded in force and not in conscience." It was Jefferson's conscience which led him to ask "whether the religious precepts against the violation of property were not framed for [the master] as well as for the slave." Suppose the slave stole something from his master: is he guilty? For Jefferson this was really a question of "whether the slave may not justifiably take a little from one who has taken *all* from him . . ." ²¹ These questions have

²¹ *Notes on the State of Virginia*, Query XIV: cf. Saul K. Padover, *The Complete Jefferson* (1943), pp. 664-665.

to this day lingered in the conscience of our democracy. More and more we are trying to close the gap between our ideals of brotherhood and our behaviour. The Supreme Court's ruling against segregation is the latest phase of the moral enterprise as it affects racial equality.

Thus, the problems of freedom, racial equality, property, civil liberties, and economic security constantly provide the raw material for that process in democracy which we call its moral enterprise. Not every solution to these problems is wise, good, or even moral. But in each case a moral problem is involved which must be solved morally. In most of these cases, the moral enterprise represents the effort of our society to draw out the implications of our ideals for our actual institutional behaviour. It is not possible to provide our democracy with a perfect blueprint for all its institutions. The passing of time, constant technological advance and the shifting circumstances of our economic order require a free context for change. But our moral enterprise represents a permanent effort to protect human values under all changing conditions, for democracy is, in the end, concerned chiefly with enabling men to live morally in a free society.

THE CHRISTIAN VIEW OF VIRTUE AND EVIL

There is probably no more important and realistic contribution made by Christianity to democracy than the one that bears upon its moral endeavour. This is not to say that Christian doctrine contains a clear set of ideas on such matters as minimum wages, civil liberties, collective bargaining, child labor and race conflict. These problems are symptoms of a deeper disturbance in humanity. And the impact of Christianity strikes at this deep matrix of social and political conflict. The Christian teaching about the nature of man and the institutions he creates reveals the fundamental source of human conflict, this source being the corruptible nature of man, his proneness to sin. It is here that democracy's highly optimistic faith in man's nature is balanced by a realistic appraisal of man's recalcitrant tendencies. The Christian faith sees man as both the great glory and the tragic element of history. This ambivalent character of man's nature is what makes it possible for men to create and achieve high ideals, but it is also the reason why men can conceive the most inhuman atrocities against their fellow men. Reinhold Niebuhr expressed this in his telling epigram: "Man's capacity for justice makes democracy possible, but man's tendency to

injustice makes democracy necessary." And centuries ago, Plato's program of "communism" by which he thought he could cure all social evils brought from his pupil Aristotle the trenchant reminder that "none of these evils . . . is due to the absence of communism. They all arise from the wickedness of human nature."²² The worst sin to which man is prone is the sin of pride which blinds him to the injustice he produces. Democracy more than any other system helps to mitigate the consequences of the sinfulness of man, for it refuses to admit any claim that any human institution is perfect, thereby simultaneously refusing to free it from criticism. To subject men's ideals and institutions to criticism is at the same time to deprive them of totalitarian claims.

The Christian conception of man's sinfulness had certain uncreative consequences for social thought and in time had to be corrected. The dualism of medieval ethics grew out of the notion that the highest attainment of the spiritual life was to be achieved by withdrawing from the sinful world into the monastery where the life of asceticism was to be pursued. The fruits of this spiritual life were to

²² *Politics*, II, v. 12.

be made available to the average man in the secular sphere only through the institutional mechanism of the church. But the underlying premise was that little could be done in the social sphere to modify the essentially sinful character of the institutions of society, thus producing conservatism with respect to the *status quo*.

With the Reformation there came a repudiation of the medieval ethical dualism, and in its place was put a new conception of Christian vocation which demanded that each individual was to develop the asceticism of the Christian life within the sphere of ordinary daily living. The Puritan took his duties in business and in all human intercourse with a new seriousness and brought to them a new creative element. He invested his daily work with a moral dimension, and sought to develop certain important virtues. In the economic realm, this produced a tremendous psychological motivation for the kind of activity which animated the growing capitalistic system. Profit was not the controlling motive but was the unintended yet inevitable result of the application of the virtues developed by the Christian inner-worldly ascetic. Such virtues as industry, frugality, and honesty could not help but produce economic success.

But it was more than economic success that was produced by this religious approach to daily vocational life. Of more significance was the fact that it tried to supply for man a coherent and unified set of ideas for the totality of his life, where economic activity and religion were brought together. "From this reiterated insistence on secular obligations as imposed by the divine will," wrote Tawney, "it follows that, not withdrawal from the world, but the conscientious discharge of the duties of business, is among the loftiest of religious and moral virtues." ²³ Man's labor "is not merely an economic means, to be laid aside when physical needs have been satisfied. It is a spiritual end, for in it alone can the soul find health, and it must be continued as an ethical duty long after it has ceased to be a material necessity." ²⁴ It prevented the moral anarchy and intellectual schizophrenia so characteristic of modern man. Under such a theory it was not possible to compartmentalize the moral, religious and economic aspects of life, for they all involved one another; the moral and religious ideas

²³ R. H. Tawney, *Religion and the Rise of Capitalism*, (1926), p. 240.

²⁴ *Ibid.*, pp. 241-242.

of men had a great bearing upon what they sought to do in the economic sphere. The "cases of conscience" and the practice of writing personal journals were evidences of the concern of men to account for the probity of their lives. The constant critical norm for the Christian was the will of God, where this ambiguous term was given concrete meaning in the injunction to men to live together in fellowship. Whatever caused this fellowship, or human solidarity, to break or become obstructed was considered sin, for the meaning of sin is to live out of harmony with the will of God. From the Christian point of view, it was always possible to point out ways in which the fellowship of humanity was being deeply denied, and for this reason no achieved system of justice could escape examination by the Christian conscience. Underlying this whole point of view was the conviction that the institutions men create cannot rise above the level of the moral and spiritual development of the men who create them. And since there are all kinds of subtle ways in which men seek to divinize their selfish lusts for power, wealth and status at the expense of the integrity of the human family, there are that many ways in which human institutions become corrupt. The awareness of these sinful

possibilities in man made it impossible, at least in theory, for the Christian ever to accept any institutions as fully perfect, for they were not the creation of perfect men. Consequently there developed in the Christian a serious concern about his own personal spiritual integrity as well as a concern for the social and political system of which he was a part. It was out of this concern that the force developed which helped make democracy a creative moral enterprise.

COMMUNIST DILEMMA IN MORALS

It would be wrong to caricature the moral concern of communism. Surely it possesses for many an enormous moral appeal because of its devastating criticism of the injustices of capitalism. The "tone" of communist economic theory is not only what Marx liked to call "scientific" but it is unquestionably moral. Such terms as "exploitation" and "class domination" are, like the term "injustice," fundamentally moral terms. The impulse to organize the working classes throughout the world and to urge them to throw off the chains of bourgeois oppression sounds like a call to a moral crusade to rectify an immoral system of society. The attempt of the communists to grant women and men equal rights in all phases

of social life and their practice of taunting democratic nations about their treatment of the Negroes is an attempt to forge a further moral argument in their debate with the democratic world.

But the heart of Marxist theory and the open evidence of communist practice clearly show that communism has no defensible conception of morality. Marx insisted that moral ideas, like ideas of justice, are the product of the material and economic environment. To some extent this is certainly true. But if one takes this as the sole basis of morality then he is a moral relativist. The position of the moral relativist amounts to saying that the morality of any time or place is exactly what it should be. In the case of Marxian theory this is even more true since not only is morality relative, it is *necessarily* relative. That is, history is unfolding according to a determined law of motion which has to mean that every epoch and its morality is temporary, that is, relative, and that it could not be otherwise. Now Marx insists that the truly scientific analysis of society and history will show that the essential fact in them is the class struggle, and that the historical process is leading inevitably to socialism and the classless society. In the meantime, this can only mean that "what is" is "what ought to

be." But when you identify "what is" with "what ought to be" you eliminate the foundation of morals, which is that the "ought" is not the same as the "is." Translated into practical terms, this means that Marxism has talked itself out of any basis for using the terms "right" and "wrong," "just" and "unjust." All it can properly say is that things are as they are because of what has gone before, and things will be different in the future because of what they are today. History is a mechanical unfolding of events, and society undergoes periodic and necessary changes as determined by the past. Marxist and communist expressions which are filled with moral connotations are entirely mis-used by them. When this contradiction is pointed out, it is admitted that what is really being urged is that men should do more actively what history is going to force them to do anyway. Rather than shaping history, Marx said that men must submit to "inexorable law." As for the passion for revolution, this is explained merely as a means to "shorten and lessen the birth pangs" of the "natural phases of its evolution." But if everything is what it has to be, then how can it be judged morally?

The only apparent answer of Marxist communism to this question is that since classless socialism

is inevitable, the wise thing to do is to get in step with history. But this is not a "moral" judgment. It is simply a cold analysis of the way things are going. In this connection Stalin wrote that "the capitalist system can be replaced by the socialist system, just as at one time the feudal system was replaced by the capitalist system." Next, he made the "scientific" observation that "we must not base our orientation on the strata of society which are no longer developing, even though they at present constitute the predominant force, but on those strata which are developing and have a future before them, even though they at present do not constitute the predominant force."²⁵ This way of thinking has the effect of eliminating from communism the "moral" concern for "the masses," for it is not so much a concern to help the masses as it is a prediction that the masses will emerge as the predominant force. Marx does not say that the class struggle is a moral struggle; he says it is a struggle of different and opposing interests. The use of force is easily brought into the picture since "force is the midwife of every old society pregnant with a new one."²⁶ It is not long before the general rule of

²⁵ See Stalin, *Dialectical and Historical Materialism*, (1940), p. 13.

²⁶ *Ibid.*

conduct is that the ends justify the means. But the most important point to notice is that all notions of morals which are in any way independent of material conditions are rejected. "It is not the consciousness of men that determines (social, political, and intellectual life process), but, on the contrary their social being that determines their consciousness."²⁷

Wherever communism seeks a hearing, and eventually control, it first of all pictures the existing social and economic situation as unjust and then promises to rectify these conditions. But, for all the high sounding phrases about justice, there is a tragic contradiction in communist procedure. The fact that the people have no voice in shaping the ends and values to be achieved in society is a serious limitation upon the moral enterprise of a nation. To this must also be added the ideological impediment to ethical thinking, for in communist ideology man is considered as being basically selfish, at least until the material conditions of life are radically transformed, and this justifies the coercive authority of the state in achieving the ends conceived by its leaders. Since the material conditions of history are the determining factors in human life, *ideas* about

²⁷ *Ibid.*, p. 45.

the good are rejected as being visionary. The "good" and the "right" are going to be achieved in society simply by arranging the material conditions in such a way that the selfishness and aggressiveness of man will wither away. It is also assumed that once this condition is achieved, the small minority who control the communist state will ceremoniously abdicate from their positions of absolute power. Such is the unbridled utopianism and misleading doctrine of communism.

DISAGREEMENT ON MORALS IN THE WEST

Western democracies would like to hold communism to a higher moral standard than they accept. The major current ethical systems in Western thought, especially those which directly affected our thinking and living, are not very conducive to a creative solution of the problems which our civilization faces. We too have proceeded on some very naive assumptions. For one thing, in trying to understand the nature of man, we have given more than a proportionate share of emphasis to the animal characteristics of man. The insights of evolution have not achieved their most fruitful results because the norms derived from the lower levels have been used to describe the higher. Because we find certain

similarities between animals and men, we conclude that human drives and behaviour are essentially the same as those of animals. Moreover, we too have generally accepted moral relativism as well as the primacy of the economic realm. This has had serious consequences for the ethical thinking of the West for it has frequently led us also to argue that the ends justify the means. Furthermore, the most dominant moral standard today is a combination of hedonism and utilitarianism which is based upon the highly debatable premise that the selfishness of all people will in the end systematically coincide. Or to put it differently, the general standard of conduct seems to be "get what you can." But the difficulty with such a standard is that it is really not a standard at all since it does not provide any positive basis for solving the resulting conflicts of interests. We must realize that such a maxim, when universally applied, leads to many of our present problems, and leaves us no strong moral grounds for extricating ourselves from the resulting dilemma. For example, if industry takes the position that it must be free to achieve the greatest possible income, there is no reason why labor cannot take the same point of view, since the general moral standard for all is "get what you can." The resulting

anarchy of this mutual piracy is clear. It is the product of our inadequate moral insight into the most creative way of balancing the claims of contending parties. In our ultra realistic and practical approach we have come too often to think that the only basis for the solution of such conflicts is through force and not through the power of moral ideas. Justice Holmes revealed the insignificant place given to such ideas when he said that "our morality seems to me only a check on the ultimate domination of force, just as our politeness is a check on the impulses of every pig to put his feet in the trough." When we consider that we have such little moral capital at our disposal to settle the problems within our nation, the poverty of ethical insight for solving the conflict between nations is even graver. There is no compelling conception of right; here the depth of Holmes's skepticism was reached when he said that "truth is the majority vote of a nation that it can beat the rest." If these moral ideas are at all characteristic of the modern democratic citizen, then it is difficult to see how we can be in a position to marshal up a formidable force of moral pressure against the external threat to democracy.

V

The Cumulative Heritage of Democracy

MODERN DEMOCRACY, as we have sought to define it in these chapters, is not the product solely of current philosophies. Democracy has a long and cumulative heritage. Wherever men gave serious thought to the nature of the good society, they inevitably formulated ideas which eventually contributed to the philosophy of democracy. Moreover, democracy had its ancient as well as modern critics. And there is much to be gained from considering these critical reflections upon democracy, for they reveal again how closely political theory is bound up with the interpretation of the nature of man. Even a brief sketch of the roots of democracy can provide us with an appreciation of the width and depth in the heritage of democracy.

The rise of democracy is as much a product of

the struggle over political power as it is a development of ideas. But the actions of men follow their ideas and it is just as important to understand the influence of ideas upon democracy as it is to analyze power arrangements. Out of the vast array of thought and debate in history one can choose certain dominant intellectual traditions from the ancient, mediaeval and modern periods to suggest the kind of ideas which influenced the development of democracy.

EARLY PHILOSOPHICAL ROOTS

Although modern liberal democracy has a relatively recent origin, the general ideals of democracy and the first successful experiment in democratic government can be traced back to the Athens of Solon (c. 638-c. 559 B.C.) and Pericles (495-430 B.C.). Society in the time of Solon faced the same problems men in the modern world must encounter, out of which democratic theory and practice inevitably emerge as a possible solution. These are the problems of resolving the conflicts between persons, groups and classes when their respective interests and objectives clash. The primary urge in the breast of man is to live in a predictable order, but controversy among men arises from their dis-

agreement concerning the grounds for social order. To say that the good society is one which is *under law* is not always satisfactory, for as Aristotle remarked "the law itself may have a bias in favor of one class or another."¹ Moreover, as we have seen in a previous chapter, communism has a kind of law, but not such as would guarantee the rights of man. Nevertheless, bringing society under the rule of law is one of the distinctive features of democracy for it means the limitation of arbitrary power. Solon's contribution to democratic theory and practice derives from the manner in which he sought to establish the supremacy of law. For he "introduced the principle of democracy by making membership of the law-courts open to every citizen."² Besides, Solon sought to achieve a balanced equality where no class would have a disproportionate social status or an excessive amount of political privilege. He did not seek to make the poor rich or the rich poor; what he did was to bring both alike under the same rules. To make sure that the rulers of the state would be held strictly accountable to the people for their acts, a special public

¹ *Politics*, III, xi, 19.

² *Ibid.*, II, xii, 3.

court, numbering some thousands of judges in which the poorest and richest citizens were judges, was established to review the conduct of the administrators at the end of their term of office. "Solon made the people sovereign of the verdict," says Aristotle, and insofar as "The sovereign of the verdict is the sovereign of the constitution," it can be said that Solon established a kind of popular sovereignty or democracy.³ Not only were the rulers in Solon's scheme subject to the judgment of these popular courts, they were also elected by the people. This made the people a real source of power, grounding political authority in the popular will.

It was along these general lines, too, that Pericles led the Athenian Republic, minimizing differences of wealth as grounds for political power, arguing that one class should not make the laws by which another class must live, and holding that power must come from the consent of the people, thus making an undivided society the real sovereign. In his famous funeral oration, Pericles expressed profound democratic sentiments when he said: "Our administration favors the many instead of the few: this is why it is called a democracy. The laws afford

³ Ernest Barker, *Greek Political Theory* (1951), p. 44.

equal justice to all alike in their private disputes, but we do not ignore the claims of excellence. When a citizen distinguishes himself, then he will be called to serve the state, in preference to others, not as a matter of privilege but as a reward of merit; and poverty is no bar . . . The freedom we enjoy extends also to ordinary life; we are not suspicious of one another, and do not nag our neighbor if he chooses to go his own way . . . But this freedom does not make us lawless. We are taught to respect the magistrates and the laws, and never to forget that we must protect the injured. And we are also taught to observe the unwritten laws whose sanction lies only in the universal feeling of what is right. Our city is thrown open to the world; we never expel a foreigner . . . We are free to live exactly as we please, and yet we are always ready to face any danger . . . We love beauty without indulging in fancies, and although we try to improve our intellect, this does not weaken our will . . . To admit one's poverty is no disgrace with us; but we consider it disgraceful not to make an effort to avoid it. An Athenian citizen does not neglect public affairs when attending to his private business . . . We consider a man who takes no interest in the state not as harmless, but as useless; and *although only*

a few may originate a policy, we are all able to judge it. We do not look upon discussion as a stumbling block in the way of political action, but as an indispensable preliminary to acting wisely . . . We believe that happiness is the fruit of freedom and freedom that of valour, and we do not shrink from the dangers of war . . . To sum up, I claim that Athens is the School of Hellas, and that the individual Athenian grows up to develop a happy versatility, a readiness for emergencies, and self-reliance.”⁴

The subsequent history of Athens, however, does not reveal a continuous line of potent advocates of democracy nor the progressive unfolding of a vigorous democratic order. Indeed, Lord Acton writes that “The loudest note in Greek philosophy is the protest against Athenian democracy.”⁵ Neither Socrates, nor Plato nor even Aristotle can be counted among the staunch proponents of democracy, notwithstanding the fact that each of these contributed mightily to the stream of democratic philosophy. This paradox is quite understandable when it is remembered that Socrates insisted relentlessly that

⁴ *Thucydides*, II, 37-41, in K. R. Popper, *The Open Society and Its Enemies*, (1952), I, p. 186.

⁵ J.E.E.D.-Acton, *Essays on Freedom and Power*, (1948), p. 137.

every subject must be open for examination on the grounds that the unexamined life, and by implication the unexamined idea, is not worth living or having. Behind this urge for debating all issues was of course the conviction that many ideas rest upon opinion and hoary custom whose rational justification is at least questionable. This puts Socrates essentially on the side of democracy insofar as he considers deliberation and debate the rightful procedure for arriving at policy decisions in society. But while Socrates implied that merely having authority did not mean that the ruler was "right," he did not elaborate any grounds upon which anything significant could be done about "the powers that be" when these violated the dictates of reason and conscience. To the end he maintained a total allegiance to the State, supporting its good laws while abhorring its evil rulers. Moreover, Socrates advocated the aristocracy of the intellect which could and did lead to the concept of the enlightened despot, a concept which was to loom large in the writings of his pupil Plato.

Plato's great political treatise, the *Republic*, is essentially a study of the meaning of justice and how it is to be established in society. But Plato was no advocate of democracy. To be sure, he urged

that the good society must rest upon justice and embody such great virtues as Truth, Goodness and Beauty. Moreover, Plato wrote a blistering criticism of depotism, comparing the despot to a "wolf" who "must make away with all these malcontents" who criticize his policy "until he has not a friend or an enemy left who is of any account . . . it is his happy fate to be at war with all such, and to lay his plans against them until he has purged the commonwealth." ⁶ The despot is a "parricide with no pity for the weakness of age. Here . . . is absolutism openly avowed." ⁷ For the despot "never knows true friendship or freedom. There is no faithfulness in him; and . . . he is the perfect example of the unjust man." ⁸ But this criticism of despotism is at the same time a criticism of democracy, for Plato insists that democracy spawns despotism: "That it comes out of democracy is fairly clear," ⁹ he says. Despotism comes out of the struggle between the rich Few and the Many poor, for when the Few seek to protect themselves from the plundering of their wealth by the masses they are accused of being

⁶ *The Republic of Plato*, Tr. by F. M. Cornford, (1951), p. 293.

⁷ *Ibid.*, p. 296.

⁸ *Ibid.*, p. 301.

⁹ *Ibid.*, p. 288.

reactionary and oligarchic "and the people always put forward a single champion of their interests, whom they nurse to greatness. Here, plainly enough, it is the root from which despotism invariably springs."¹⁰ Plato's reasoning here assumes a special meaning of democracy, namely, that it is essentially anarchy, especially an anarchy of the passions which results in boundless desires for the things which satisfy the appetites. This boundless desire results in the plundering of the rich, a program which inevitably calls for a strong leader, that is, the despot.

Plato's criticism of democracy runs even deeper. As he saw it, in a democracy "the citizens become so sensitive that they resent the slightest application of control as intolerable tyranny."¹¹ And with mocking irony he disparages this democratic spirit of liberty by saying that "No one who had not seen it would believe how much more freedom the domestic animals enjoy in a democracy than elsewhere. The very dogs behave as if the proverb 'like mistress, like maid' applied to them; the horses and the donkeys catch the habit of walking down the

¹⁰ *Ibid.*, p. 291.

¹¹ *Ibid.*, p. 289.

street with all the dignity of freemen, running into anyone they meet who does not get out of their way. The whole place is simply bursting with the spirit of liberty.”¹² But what is this spirit of liberty? It means, says Plato, that “every man will arrange his own manner of life to suit his own pleasure.”¹³ Also, it means that “you are not obligated to . . . submit to authority, if you do not like it.”¹⁴ Moreover it means that men will rise to high positions of government who “had not played as a child among things of beauty and given himself only to creditable pursuits.”¹⁵ Anyone, he says, can be elected to high office by simply calling himself a friend of the people. Again, the essential basis of this spirit of democratic liberty is libertinism or the anarchy of desires, where “one appetite is as good as another and all must have their equal rights.”¹⁶ Because democratic liberty means anarchy of the passions, it follows that democracy is political anarchy too, since there is no dominant element in such a society by which the people can be ruled.

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 282.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, p. 283.

¹⁷ *Ibid.*, p. 286.

Plato's criticisms of democracy are best understood by considering his fundamental conceptions of the good society. For Plato the good society must embody the virtue of justice. But it is Plato's unique way of elaborating the concept of justice that makes him an enemy of democracy. The very starting point in his reasoning is a clue to his eventual conclusion, for he derives his notion of justice from the analogy of the virtuous person with whom he compares society. Like the individual person who possesses three distinct levels in his being, namely, the rational, the passionate and the vegetative, society also has three corresponding classes, the rulers, the guardians and the artisans. And society achieves "order" the same way as the individual does in his life. The individual lives an orderly life when the three components of his nature are in "proper" subordination to one another, the appetites being under the control of the reason. Similarly, in society order is achieved only when the members of the three classes "stay in their place," "their place" being determined by the specific function they are able to perform. Justice, then, has to do with "order," and order means staying in one's place. This means that justice is a term which applies to a condition of society, i.e., where everyone is in his proper place,

and not to a condition where the rights of individuals are guaranteed.

Plato's theory of justice rests on a rigid class structure, where each class is engaged in its share of activity on behalf of the State. Justice for him is not the proper treatment of men in society as much as it is each man fulfilling his function which his station in life demands of him. Inevitably this means that Plato's attention was deflected from such a concept as "individual rights" and fastened almost exclusively upon the concerns of the collective organism, the State. Here is the application to political theory of his theory of knowledge and of reality in which he held that the most real is the One while the partial and imperfect are found in the Many. Thus a society based upon the principle of the Many, such as democracy, is on a lower level than one based on the idea of the One which his State was to use as its pattern. Such key concepts of democracy as liberty and equality have no place in his theory, for his state is to rest upon the inequality in men, and as we have already seen, he was almost incapable of distinguishing between liberty and anarchy. His notion of the philosopher king contains the implication that wisdom is the prerequisite for the ruler. Into the hands of such

intellectual aristocracy should be placed the powers of the state. "For the greatest principle," says Plato, thinking not only of the conditions of war but also of peace, "is that nobody, whether male or female, should ever be without a leader. Nor shall the mind of anybody be habituated to letting him do anything at all on his own initiative, neither out of zeal or even playfully. But in war and in the midst of peace—to his leader he shall direct his eye, and follow him faithfully. And even in the smallest matters he should stand under leadership. For example, he should get up, or move or take his meals . . . only if he has been told to do so. . . . In a word, he should teach his soul, by long habit, never to dream of acting independently, and to become utterly incapable of it. In this way the life of all will be spent in total community. There is no law, nor will there ever be one, which is superior to this, or better and more effective in ensuring salvation and victory in war. And in times of peace, and from the earliest childhood on should it be fostered—this habit of ruling others and being ruled by others. And every trace of anarchy should be utterly eradicated from the life of all men, and even the wild beasts which are subject to men." ¹⁷

¹⁷ *Laws*, 942 a f.

But in spite of his misgivings about democracy, Plato did advocate certain ideas which have played an important role in democratic theory and practice. His notion that the laws of a state should conform to reason is a most significant element in a democratic order for it helps to clarify the distinction between a true law and an arbitrary command of government. Moreover, he constantly urged that the government must be subject to the will of God, thus proposing moral limits to the activity of the state. There can be no question that he sought to build his state on a moral foundation. Yet, the net effect of his ideas was contrary to the spirit of democracy and it is no wonder that in his earlier writings his pupil Aristotle should have followed him in this opinion.

Aristotle took a dim view of democracy in his *Ethics*, but later in his life when he wrote the *Politics* he found many things to recommend in the philosophy of democracy. He especially formulated in clear terms the definition of citizenship which is a crucial term in democratic thought. The best way to define a citizen, says Aristotle, is as "a man who shares in the administration of justice and in the holding of office," ¹⁸ and he adds that this is "partic-

¹⁸ *Politics*, III, i, 6.

ularly and especially the citizen of democracy.”¹⁹ But this is more than just an obvious definition of a term; it is also a clue to the proper organization of the state, for the state should be a body of such citizens, where all members of the state share in the administration of justice and take turns in ruling and being ruled. The claims of democracy arise from a deep desire in men to share in the power of the state and it is a real risk for a society not to share political power among the citizens, “for a state with a body of disfranchized citizens who are numerous and poor must necessarily be a state which is full of enemies.”²⁰ Moreover, Aristotle urged that the function of government and the state is to encourage good actions and not simply to institute a stable social order. And the familiar theme in later democratic thought, when men began to speak of “the government of laws and not of men,” was already in the teachings of Aristotle when he wrote that “rightly constituted laws should be the final sovereign”²¹ and that “personal rule” should be tolerated only in those difficult areas where it is impossible to frame general rules ap-

¹⁹ *Ibid.*, III, i, 10.

²⁰ *Ibid.*, III, xi, 7.

²¹ *Ibid.*, III, xi, 19.

plicable for all contingencies. Moreover, Aristotle repudiated the aristocratic notion that persons should be granted a share in political power only on the basis of their nobility of birth. Comparing the citizen to a flute-player Aristotle comments that "nobody will play better for being better born."²² And he admitted that "some may be swift and others slow; but this is no reason why one should have more [political rights], and the other less."²³ He saw quite clearly that all this meant that the central idea of democracy is liberty, where liberty means "freedom from any interference from government and, failing that, such freedom as comes from the interchange of ruling and being ruled."²⁴ For him this concept of the citizen and this definition of freedom also meant the inevitability of equality. This follows from the simple deduction that only equals can have equal shares in the political power of the state.

But Aristotle's theories of citizenship, freedom and equality did not lead him to what we would call real democracy. For in his thought not everyone could be a citizen, not everyone could enjoy

²² *Ibid.*, III, xii, 4.

²³ *Ibid.*, III, xii, 7.

²⁴ *Ibid.*, VI, ii, 4.

the same freedom, and whatever equalities men possessed were overshadowed by their natural inequalities. Indeed, Aristotle sought to make a strong case for the natural basis of slavery, arguing that the slave is one who by nature is born to be the property of another man. A slave does not possess sufficient intellectual powers to be a free man, and his body is formed chiefly for the purposes of labor. There is another kind of slavery which Aristotle calls "conventional" or "legal" which comes about when men are captured in war and are subjugated by the victors. This kind of slavery, says Aristotle, is hard to justify because it rests merely on the power of some men over others. But his theory of "natural" slavery was destructive of the true democratic ideal because he argued that men are "marked immediately at birth between those who are intended for being ruled and those who are intended to rule. . . . A man is by nature a slave if he participates in reason to the extent of apprehending it in another, though destitute of it himself. . . . It is nature's intention also to erect a physical difference between the body of the freeman and that of the slave, giving the latter strength for the menial duties of life, but making the freeman . . . useful for the various pur-

poses of civic life.”²⁵ And even though Aristotle urged that the relation between a slave and his master rests on “friendship,” the idea of this natural slavery was a glaring contradiction of the democratic view of man. For this reason and because he believed there were other basic inequalities among men, Aristotle could never fully endorse and advocate democracy. His final choice of the best political arrangement was the mixed constitution where aristocracy and democracy were combined and balanced against each other.

Roman political thinkers were influenced by another strand of thought which was destined to have an important effect upon the development of democratic thought and practice: the philosophy of Stoicism. The insipient democratic insight of the Stoics was their affirmation of the brotherhood of all men. They arrived at this idea through their conception of the nature of God and the nature of the universe, for they taught that God is an “imminent cosmic reason” which permeates all of nature. The supreme command in Stoic ethics is to “follow nature,” but it is obvious here that if nature is permeated by the divine reason, then to follow

²⁵ *Ibid.*, I, v, 2-9.

nature is to follow reason. Moreover, man as a part of nature partakes to a unique degree in this reason which pervades the universe. The brotherhood of man is derived from the fact that all men share in this universal reason. The basis for a universal human community is hereby established, for when all men participate in the same rational principle they are able to agree upon the definitions of right and wrong and upon the rules which should underly an organized community. Such distinctions among men as slave and master, or differences of nationality, disappear in light of the basic equality and unity in the human family brought about by the common denominator of reason which all people possess.

Out of this notion that everyone shares in the rational nature of the universe came forth the powerful doctrine of natural law. "Natural law" is here defined as a rule of conduct for human beings whose source is not the state but nature, that is, reason. This is what Cicero meant when he said that "we are born for justice, . . . and right is founded not in opinion but in nature."²⁶ Everybody is capable of knowing this law because it is "a true law, right reason, agreeing with nature, diffused among

²⁶ *De Legibus*, I, x, 28.

all.”²⁷ This led to the Roman conception of the *jus gentium*, which was the law applicable to all peoples regardless of national origin, for as Cicero said, “nor is it one law at Rome and another at Athens; one law today and another hereafter; but the same law everlasting . . . will bind all nations.”²⁸ That these ideas should have influenced the growth of democratic ideas is now apparent, for this doctrine of natural law inevitably meant that men had found a law superior to that of the despot, a law which every one can learn and by which all should be governed. In its sight all are equal and all are bound to their fellow men as members of the community of rational human beings. To limit the power of the ruler in this way had the effect of making the people sovereign. Since law is a matter of reason instead of power, the source of law is reached through the reason of the people. They transfer to the ruler the power to rule, not arbitrarily but according to constitutional principles. The doctrine of the rational unity of mankind also contained the democratic idea that all men can share in the process of governing. This unity of mankind implied that all men have

²⁷ *De Republica*, III, xxii, 23.

²⁸ *Ibid.*

similar rights and duties which pertain to them by nature and not legislation. Here also is a higher law and standard by which a person can judge his ruler for "when you appear before the mighty of the earth," says Epictetus, "remember that another looks from above on what is happening and that you must please Him rather than this man."²⁹

The democratic implications of these Greek and Roman ideas were not immediately put into practice. Indeed, Greek and Roman democratic ideals were not, in the long run, taken very seriously and certainly nowhere applied on a large scale. Even the Republic of Athens in the time of Pericles was a limited democracy where out of a population of over 500,000 there were only about 30,000 full citizens; this raises the question whether Athens was a democracy after all. The democratic elements and the constitutional principles in Roman political theory were not put into practice in the early days. The principle that the Roman people are the true source of law and the belief that all law is subject to the natural law did not lead inevitably to constitutional government. Rome was, in fact, as Gibbon has said, "an absolute monarchy

²⁹ In Bertrand Russell, *A History of Western Philosophy*, (1945), p. 263.

disguised by the forms of a commonwealth.”³⁰ If by democracy is meant government by the people and the sincere diffusion of liberty, justice and equality, then the ancient period provides us with no full-blown example of democracy. But there can be no doubt that many of the philosophical roots of democracy grow out of the intellectual soil of this period.

THE IMPACT OF CHRISTIANITY

Likewise, the many centuries which span the mediaeval period provide us with no instance of democracy comparable to the modern democratic state. This was a period, it must be remembered, when the thought of Plato and especially Aristotle was revived but their democratic insights were not translated into action. Mediaeval society followed the analogy used by Plato by considering society similar to a human being whose peace and order comes from the proper subordination of all its parts to the higher faculties, or, as applied to society, where each class is subordinated to a higher one and where all are under the authority of a single ruler.

The mediaeval period was a time when the domi-

³⁰ *Rise and Fall of the Roman Empire*, Chap. iii.

nant influence upon thought came from Christianity, for by this time the Christian gospel had achieved a wide and significant position in Western culture. And as we have seen, Christianity was one of the most potent forces in bringing about the democratic order. It is a rather interesting fact, however, that although Christianity contains powerful and revolutionary ideas leading to democracy the connection between this faith and democratic thought should have taken almost fifteen centuries to become articulate. The Christianity of the Middle Ages did not pursue its latent democratic ideals in any major area of human activity. The simple ideas of the Gospel of Jesus had soon developed into an elaborate theological scheme and the major concerns were with the institutional structure of the Church. The Church was also concerned with its own status in relation to the power of the State and in time developed the theory of Papal supremacy over the State. Moreover, the all-pervading concern to distinguish the natural from the supernatural realms in life led to a preoccupation with the supernatural concerns of salvation and a passive attitude toward the temporal "world." In the social and political realm the chief objective was "order" which could best be achieved by delineating the

precise levels of authority and obedience. This concern for order and the appraisal of the "world" as of secondary importance undermined any aggressive and positive attempt to implement the democratic ideals lurking in the Christian faith. But this is not to say that the Middle Ages did not make a contribution to democracy. In this period developed such important concepts and practices as constitutionalism, trial by jury, taxation by representation, local self-government, some measure of ecclesiastical independence and responsible authority, each of these growing out of the urge to build society on a moral foundation. And although the democratic implications of the Christian faith were not drawn out during this period, the Middle Ages did nevertheless bequeath to Western civilization the Christian understanding of man which was to play such a dominant role in the rise of modern democracy.

The Christian faith pictured man as the creation in the image of a personal living God. Immediately this conception invested the individual person with an importance and a value which no philosophic system had been able to achieve. To say that man's origin was the creative purpose of God led men to search for their own ultimate purpose in the wider

realm of God's creative activity in history, instead of in the narrower realm of man's own nature. Moreover to say that man is created by the will of God has the effect of giving man a sense of purpose and duty which transcend the levels of inclination and prudence. To obey the will of God became the chief duty of man. The content of the will of God was not systematically elaborated by Jesus but was expressed as the simple formula of loving God and fellow men. But to love God and fellow men has far-reaching implications, for to love God is to love the infinite and by definition no other object could command man's highest devotion. In the practical political realm this meant that a Christian could not give the same allegiance to the State as he would to God. It is from this idea that the democratic attack upon despotism or absolutism or "statism" derived. For in the Christian faith the primary relation is the one between God and man and not between man and the State. Totalitarianism, on the other hand, rests upon the denial of the relation between the divine and the human for only by such a denial can it sustain its claim to total obedience. The effect of the Christian doctrine of man upon the crucial insights of democratic thought cannot be over-emphasized for it was the power of

this idea which forged the most powerful intellectual weapons against "total government." This is why in a democracy government is uniformly considered a means and never an end in itself. The primary end in democracy is man, and, in turn, the end of man is to love God and his fellow man.

The injunction to love one's fellow man also had far-reaching implications for democracy, for as Jesus unfolded his conception of who constitutes the rightful object of our love in the human sphere, it became plain that love cuts across all barriers of race and class. Stoicism had preached the universal brotherhood of man before Jesus did, and it had a profound influence upon Christian and democratic thought. But it had certain limitations which the Christian view of man was able to overcome. For the Stoics, God was an impersonal, material, rational substance permeating the universe and sustaining its order. But such a conception could not provide any fundamental clue to man's highest obligation, for it contained a theory of determinism, the concept of "fate." If all activities are the consequence of fate, it is hard to see how it is possible ever to say that wrong or evil are the products of men's activities nor how man is in any position to respond to the injunction to "follow nature." Stoic

ethics inevitably became one of accepting things as they are since the basic relation is between man and nature and neither of these can be changed. But Christianity teaches that the will of God is not identical with nature; that is, the free acts of human beings are capable of upsetting the moral order of mankind. In short, Christianity developed the doctrine of sin by which it meant man's revolt against the will of God. Man sinned most conspicuously when he divinized temporal or finite objects and turned his back upon God. He sinned crucially when he failed to love his fellow man.

But the important insight of Christianity is that such a failure to love one's fellow man is to thwart the will of God. That all men at some time repudiate the will of God makes them not only uniformly sinful but also equally in need of God's redemptive love. The way men had treated each other made the Gospel of Jesus rather plain to those who heard it. The deep sense of moral estrangement which came from sinful human intercourse made the simple law of love take on a dimension of adequacy unheard of before.

Though the gospel of love was a thoroughly "religious" teaching it could not avoid having "social" implications for the two go hand in hand. The pur-

pose and end of human existence is to respond to the love of God and to enjoy the resulting fellowship. Only the "pure in heart" could "see" God; yet only those who loved their fellow men could achieve "purity of heart." To love one's fellow man meant to remove all invidious and divisive barriers which destroy the fellowship of love among men. The escape from moral estrangement comes via repentance and forgiveness and through the conscious concern to broaden to an ever-increasing area the bond of human fellowship. The rigor of this ethic derived from the fact that every single human being is the conscious product of the creative act of God and every individual belongs in the fellowship; the responsibility of man is to make room for all in this fellowship and the ground rule for achieving this end is the rule of love. There had never been such a tremendous emphasis placed upon the value of the individual, nor had individualism ever been put in such a creative context of fellowship. The incredible doctrine created by Jesus was that because people are unequal they must be equal! That is, he argued that the law of love requires that differences between people should not be crucial in deciding the questions concerning human togetherness. As St. Paul wrote later, "There is neither Jew nor Greek,

there is neither bond nor free, there is neither male nor female; for ye are all one in Christ Jesus.”³¹ To put the matter differently, it is *because* there are differences between people that the law of love was promulgated, for it must overcome the natural disposition of man to make these differences fundamental. The thrust toward individualism in Christianity had the effect of putting everyone on an even basis before God; in time such individualism had the effect of making men equal in each other's sight.

Christianity did not immediately revolutionize society with this ethic of equality for its original application was to the religious sphere where everyone was equal in the sight of God. It accepted most of the current social institutions just about as it found them. One does not find in mediaeval social philosophy for example, a direct denunciation of the institution of slavery; emancipation was to come centuries later. But the spiritualizing of human relations could not avoid softening the grounds for slavery. Unlike Aristotle's justification of slavery as an irrevocable arrangement of nature, the Christian community saw in this practice the product of human

³¹ *Galatians*, III, 28.

perversion. The coercive order of the state was likewise the product of the "fall of man" and was to be "suffered" in the interests of minimal order. But no particular kind of order could claim divine origin: the most that Christians would say is that some form of government is ordained of God. Inevitably early Christian social thought was conservative in that it accepted the status quo: but it was creative and in its own way revolutionary in that it simultaneously led man to strive for a full set of ideals which transcended the standards of secular social life. The injunction "Be ye perfect even as your Father which is in heaven is perfect" ³² had the effect of imposing upon the Christian the continuing effort to embody this set of ideals in his daily life.

The gradual development of the Church in this period had a further important effect upon political history. For even though the democratic elements of the Christian faith were not clearly developed, the fact that the Church represented the religious interpretation of man meant that the dominant institution of the Middle Ages preserved the ideas which would one day be seen in a different light. Even during the early and high Middle Ages the

³² *Matthew*, V, 48.

Church stood as the institutional embodiment of ideals which claimed superiority over the raw will of the rulers of the state. The admonition to Christians to "obey the powers that be" did not mean that the Church considered any and every type of ruler as equally legitimate. Though the Church tended to accept the status quo and develop parallel to it its own "society," it could not help developing a kind of traffic in ideas between the two societies. Thus the insights of St. Augustine concerning the nature of the City of God could not help but have some bearing upon what he thought should be the character of the city of man. Similarly, St. Thomas Aquinas developed a theory of natural law which laid a solid foundation for the positive or civil law. He went so far as to say that if the law of a state was contrary to the natural law (of God) then it was no longer a law but a perversion of law and that under certain circumstances it should not be obeyed. To be sure, the Church developed along hierarchical lines, soon claimed infallibility in the interpretation of truth and became deeply involved in the affairs of empires. Becoming thus entwined in the authoritarian institutions of its society it could not be the agency for the creation of democracy. When it sought to disengage itself from

the life of the world, it developed an otherworldly asceticism and found spiritual refuge in monasticism.

This authoritarian character of the Church caused the most strident voice in advocacy of democracy to come from a man who would radically reconceive the meaning of "the Church" and redefine the source of political authority. Marsilius of Padua rejected the notion of the Church which held that it is the clergy; instead he considered the word church to mean "the whole body of the faithful, who believe in and invoke the name of Christ."³³ The importance of this emphasis upon the people who make up the church is of course the shift away from the hierarchical concept and a weakening of the superiority of the clergy over the laymen, ultimately leading to an equality in their respective authority. Insofar as the religious society and the civil society resembled each other in organization in the Middle Ages, Marsilius applied this same democratic theory to the problem of political authority, arguing that, as in the Church, the source of authority ought to be the people. He called for wide representation in the affairs of the Church, advocating the use of Coun-

³³ Alan Gewirth, *Marsilius of Padua*, I, p. 260.

cils to offset the independent supremacy of the Pope, and in the state he was the champion of the idea that the will of the people should be sovereign. That Marsilius should have discarded some of the religious ideals which the earlier Middle Ages had espoused, ideals concerning the ultimate end of man conceived in spiritual terms and as ideals informing the rulers of the state, may have to be attributed to his conviction that freedom and an actual share in the shaping of social ends is of greater value than unrealized ideals locked in an authoritarian strait jacket.

Looking back upon this period it must be said again that it did not bring forth in its own time any widespread democracy. But it did provide the soil out of which there grew important ideals which were later to play a significant role in the establishment of democratic order. For surely we have here the grounding of authority in a source higher than human nature. Man's highest obedience was to principles and not so much to men; the divine order of the City of God brooded over the minds of men providing a concept of justice to which political conceptions found themselves having in time to submit. Even the pessimistic appraisal of man as a sinner had a salutary effect upon later political

experience for it became the key for understanding how men attempt to disregard the claims of other human beings and suggested the urgency for dealing with this human disposition by erecting appropriate safeguards against the self-centered and pretentious urges of men.

THE REFORMATION AND THE LEFT-WING SECTS

It is generally agreed by historians that modern liberal democracy is a product of the period of the Reformation. This is not to say the principal Reformers enunciated a clear doctrine of political democracy. "Modern democracy," writes G. P. Gooch, "is the child of the Reformation, not the Reformers."³⁴ Luther still considered the Church "the bulwark of political stability" and from this conception it was easy to infer the doctrine of divine right and passive obedience. Calvin was more interested in democracy than Luther, (his ideal government would be "aristocracy tempered by democracy") but he did not achieve that brand of democracy in the theocracy of Geneva which his ideas were destined to evolve at a later date. Moreover the Refor-

³⁴ G. P. Gooch, *The History of English Democratic Ideas in the Seventeenth Century*, pp. 8-9.

mation was a complex phenomenon in which many factors, religious, political and economic were interrelated. The religious concerns of this period were not the only ones at work in producing democracy. But they became the dominant element in the unfolding of the democratic ideas of this period for, as Lord Acton has written, "The idea that religious liberty is the generating principle of civil, and that civil liberty is the necessary condition of the religious, was a discovery reserved for the seventeenth century."³⁵ And the seventeenth century is the period when the democratic implications of the Reformation came to fruition. By this time there had developed a "radical left wing" of the Reformation which went beyond Luther's conservative passive obedience and Calvin's theocratic notions. Such sects as the Anabaptists, Congregationalists, Independents and Quakers developed a new conception of the Church and its relation to the State which led them to strive simultaneously in the congregations as well as in civil society to embody their new views on liberty and equality. These were the groups who represented Puritanism, and it is these sects which Lord Acton has called "the most

³⁵ *Essays on Freedom and Power*, p. 79.

potent agency ever brought to bear on democratic history," ³⁶ and about which Tawney was thinking when he wrote that "it is probable that democracy owes more to Nonconformity than to any other single movement." ³⁷ And Christopher Dawson has said that "in England the pure Calvinist tradition was united with that of the Anabaptist and independent sects to produce a new movement which was political as well as religious and which marks the first appearance of genuine democracy in the modern world." ³⁸ The connection between Christianity and the rise of modern democracy is therefore quite clear. But what has to be borne in mind is that it was a particular type of Christianity which energized the democratic thrust. It was not Roman Catholicism, nor Anglicanism, nor Lutheranism, nor even initial Calvinism. It was a modified left-wing Calvinism, or more generally left-wing Puritanism from which the bridge was built from Christianity to democracy.

Both in England and in New England left-wing Puritanism produced the most conspicuous demo-

³⁶ *Ibid.*, p. 165.

³⁷ *Religion and the Rise of Capitalism*, (1926), p. 272.

³⁸ In J. H. Nichols, *Democracy and the Churches*, (1951), p. 29.

cratic ideals and practices, and "the democratic church had grown into a democratic state."³⁹ On both sides of the Atlantic there was a controversy within Puritanism and in each case it was the modified type of Puritanism which led to political democracy. In England the Presbyterians had almost achieved their goal of establishing a constitutional monarchy in 1646, but by then the popular sects had grown strong enough to challenge the emerging theocracy. "One may say," says J. H. Nichols, "that modern democracy was born in June, 1647, when at Newmarket and Triploe Heath Cromwell's Army covenanted not to disband until its rights and liberties were assured. Democratic left-wing Puritanism had challenged theocratic right-wing Calvinism. A year later Colonel Pride 'purged' the Parliament of Presbyterians and the Army democracy prepared to organize a new State and a new Church system for England."⁴⁰ Certain demands were then made by Cromwell's Army to Parliament which had the effect of securing further the democratic tendency already set in motion. The Army demanded biennial parliaments with a new distribution of seats, equal-

³⁹ G. P. Gooch, *op. cit.*, pp. 66-67.

⁴⁰ *Op. cit.*, p. 31.

ity before the law, freedom of religion, a recognition of certain inalienable rights resting upon a voluntary covenant. Within this Army there was a council which was, as Nichols says, "a genuine democratic assembly" resting upon a new conception of the religious community and providing the pattern for democratic civil government.

Likewise, in New England, Puritanism took two forms, the one leading to theocracy and the other to democracy. In Massachusetts, the churches began to lose their democratic congregational character and to take on hierarchical aspects. Also, at the first General Assembly in 1630, the colonists voted away some of their political power by agreeing that the Governor should be elected by a Council and that the laws should be made by the governor and the Council without any general consent from the people. Moreover, the right to vote was restricted to those who were members of some recognized Church. Next it was enacted that any person speaking out against the Council or the Magistrate should be banished. "The principle reason why the colony was less democratic than might have been expected," says Gooch, "was that, though the civil government was in theory separate from the ec-

clesiastical, it was in reality strictly subordinate.”⁴¹ This subordination of the colony to the Church grew out of the anti-democratic feelings of some of the powerful ministers of this period. Most notable among these men was John Cotton whose Calvinism led him to political conservatism. “Democracy,” said Cotton, “I do not conceive God ever did ordain as a fit government, either for Church or Commonwealth. If the people be governors, who shall be governed? . . . theocracy (is) . . . the best form of government in the Commonwealth as in the Church.”⁴² Inevitably Massachusetts became a theocracy patterned after the republic of Geneva and Roger Williams became the American counterpart of the type of Puritan found in Cromwell’s Army. He led the refugees from Massachusetts Bay Colony to Rhode Island where the essential elements of democratic government were set up, including a civil covenant which called for majority rule, government by consent, due process of law and the strict separation of Church and State. By thus putting the preponderant share of political power in the hands of the people and securing to all political and religious freedom,

⁴¹ *Op. cit.*, pp. 68-69.

⁴² *Ibid.*

Rhode Island more than any other colony met the requirements of democracy.

The specific connection between left-wing Puritanism and democracy must now be considered. We have already seen that this connection lies in the patterning of civil society after the organization of the Church. It is for this reason that the definition of "the Church" espoused by the left-wing sects and their interpretation of the relation between Church and State are so important. For just as the Church is now conceived as "a covenant of conscious believers" where equals come together to join freely in the religious community, so also the civil community is a coming together of equals who join together to rule and be ruled on the basis of an agreement, or compact or covenant. In both Church and civil society there is no natural hierarchical stratification and no corresponding special and unequal power. There is authority, but all authority grows out of the group, on the one hand, and from God and the higher law on the other. In the Church, all members come together as equals, equally bound by the laws of God; in civil society all members are equal in the sight of the law. As in the Church no one can claim special exemption from the spiritual law, so in civil society no one is above the civil law.

This conception of the Church as a voluntary association of equals became the analogy for the political society. Moreover, the Puritan congregation had repudiated the notion of religious authoritarianism. Although it accepted the idea of absolute truth, it refused to believe that anybody possessed this truth absolutely. Indeed, the function of the religious community was to gather in a spirit of seeking the truth. To be sure, the Scriptures became now the rule of faith but, Scriptural literalism aside, there developed an individualism in its interpretation where each person's insight into its truth was proportional to his gift of the Spirit. The Bible was "discussed." Similarly, the ends and purposes of the political order became a matter of popular discussion instead of the pronouncements of unchallenged rulers. Further, the left-wing insistence upon the separation of the Church and State also had democratic implications, for as we have noted above, when the Church in Massachusetts gained supremacy over the political realm, it reserved the franchise for those alone who were members of the Church, and this had the effect of disfranchising a large group of the people.

Finally, Puritanism forced upon the conscience of man a sense of moral responsibility which was

binding in all walks of life. This sense of individual moral responsibility was the clear outcome of the Reformation principle of the "priesthood of all believers," a principle which meant not only the spiritual equality of all men, but also the equal sense of religious vocation in the temporal affairs of life. Such a sense of responsibility provided democracy with a vital moral concern, for it brought the ethics of religion to bear upon the secular world in a direct and powerful way. The values and ends of the Church and political society were thus, if not identical, then at least compatible and complementary. Though John Locke, the great formulator of democratic philosophy, said little about the Church, he followed the main lines of Puritan thought. His conception of the origin of man, natural rights and moral duties, and the doctrine that men have rights which are to be protected, not created, by the State translated Puritan principles into the political creed of democracy.

VI

The Motive of Man in Democracy

WE HAVE DEFINED democracy in terms of its faith, its unique way of organizing political society through the diffusion of power and the supremacy of law, and in terms of its moral endeavour, and have considered how these ideas developed historically. Finally we are left with the practical question of how democracy can be infused with a creative power which will sustain and preserve it and lead it consistently to fulfil its ideals. Inevitably, this practical concern turns our attention to the way men behave socially and to the motives by which they live. These motives by which they live have an important bearing upon what purposes men think their society ought to achieve. Also, *whether* a democracy can achieve its goals depends in large measure upon the motives men make dominant in their lives and in society. We are faced here with the broad question of what motives can lead men

to behave in such a way that the purposes of democracy can be realized? The vitality of any society rests upon its clear understanding of what it wants to accomplish and the availability of a motivating power to accomplish it. We need to clarify this relation between purposes and motives especially as it bears so crucially upon the fate of democracy.

St. Augustine compared society to a theater audience. Imagine, he said, such an audience a half hour or so before the opening of the performance. Here is a group having a 'conversation, there is a person waving to someone in the balcony, everywhere clusters of people are talking about any and every topic. Confusion reigns and instead of a community there is almost complete anarchy. But the moment the performance begins, the people are transformed into a community, following in unity the progression of the drama, responding to the varying moods portrayed by the actors, showing a remarkable oneness of mind and spirit as they sigh, laugh, and ponder together. They have become a community by virtue of a common object presented to their minds.

In the long run, human community grows out of some basic agreements between the members who compose it, for human community is more

than physical contiguity, it is a rational or at least conscious communication of values or ideals held in common. A society is held together and is formed into a community by means of certain compelling ideals and purposes which its members understand, accept and consciously seek to foster. This is a fact that totalitarian government knows only too well; the dictator has a genius for articulating some common ideal which captures the imagination of the people and welds them into a very highly unified community. Most frequently the dictator does not impose these ideals upon the people but instead catches the sentiment of the nation and decides, as Pareto said, that "the art of government lies in finding ways to take advantage of such sentiments, not wasting one's energy in futile efforts to destroy them." These common ideals and values which unify society can therefore be a positive menace. This is to say that not every ideal creates the good society or community; hence not every community is desirable. A robber band is a society and a very intimately woven community, but it is, after all, a community of robbers! Obviously, this does not mean that we should cease to strive either for creative ideals or for the creation of community. All it means is that we are seeking for the proper

ideals through which the human community can achieve its fullest realization.

If we are to avoid falling into the same mode of thought which leads to a doctrine of materialistic determinism, then we shall have to re-affirm a view of man which says he is both free to create ideals and to make crucial decisions in history and that he is morally responsible for his acts. The effect upon human behaviour of the economic and other social institutions must be admitted, but to say that all human behaviour is thus externally conditioned is to undo the chief bulwark of an ethical view of man. Actually, it seems quite impossible to achieve any view of man which does not imply moral freedom or at least the possibility of making value judgments and preferences. Even those who argue that man is externally conditioned, soon begin to decide that different kinds of external conditioning lead to different results. They then go about manipulating the environment in such a way as to obtain ends which they prefer over others. But such activity implies two things, namely, that man after all is not wholly influenced and determined by external events, being as he is able to make preferential decisions, and that he is able to conceive of differences between values. It appears obvious that man

can by conscious activity shape to a certain degree his society and can actively deliberate about ends. That there is a real sphere of freedom in human activity seems certain, and that man can and does deliberate about ends is likewise true. The chief problem we need to face is the problem of ends and purposes and the manner in which man is motivated to achieve these purposes in a democratic society.

THE PURPOSE OF SOCIETY

What is the purpose or end which a democratic society seeks after? And upon what motives must men base their conduct if these democratic ends are to be realized? These are the questions a philosophy of democracy must answer in a creative way if it would want to answer the challenge of the collectivist world.

Three fundamental purposes which have followed one another chronologically as the paramount social ideals in given epochs, and which in the modern world present themselves as striking alternatives, are the ideals of *order*, *freedom*, and *security*. Careful reflection about these ideals would certainly indicate that they are not necessarily mutually exclusive ends, as if to pursue one is to deny or frustrate the other. But it has been the case that

whenever either one of these ends is taken to be the dominant one and, moreover, when the motive leading to its choice as the dominant ideal has not been a defensible motive, then the purpose of democratic society as we have defined it is destroyed.

Order is an end that any and every society wants, for order is the prerequisite for stability and peace. But the history of man reveals that order can be achieved at a price that is too high when counted in terms of human values. Plato set the pattern for thinking about order for centuries to come when he provided the striking analogy between the living organism and the body politic. As order is the outcome of the proper functioning of the parts of the body and mind, so in society order comes about when each segment of society is doing what it ought to be doing. It was this analogy which provided the intellectual basis for the stratified society in which order rested upon a rather rigid class structure. In the ancient period this meant the institution of slavery was a legitimate one, and indeed was a prerequisite of an ordered society. In the mediaeval period the feudal structure expressed the same theme, holding that an orderly society could not be achieved without a clear definition of social strata and the assignment of specific functions to these

strata, the whole arrangement resting on the clear premise that everyone had to exercise his proper function, that is, stay in his place. Involved in this approach to order was the further premise that political authority and power pertained only to that class or group whose function it was to rule. The sharp distinction between the rulers and ruled was an obvious outcome. Although Plato had made provisions for members of various classes to move up or down the social ladder according to their actual abilities instead of their parental origin, later societies were unable to achieve this kind of mobility in practice on any large scale. The class structure tended to become rigid, with everyone destined more or less to stay at the level at which he was born. The practical consequence of this ideal was that rewards and duties in society tended to follow class lines instead of individual merit. The opportunities of life, if not entirely closed to the great majority of the people, were restricted to the privileged. The modern variation of this concept of order is equally horrendous for the totalitarian state puts order at the head of the list of social objectives. Here, curiously enough, the totalitarian state may hold that all men are equal and at the same time force all men into a rigid order. Equality here

means only in the end that all men are equally subject to the power and authority of the rulers. Although all class distinctions may be obliterated, as in communism, there still remain the obvious categories of worker, soldier and ruler into which people must be fitted and fixed. Since the chief concern is order, human freedom and sensitivities are submerged to make possible the imposition of the bureaucratic plan whose dictates take precedence over such considerations as personal rights and dignities. Modern totalitarianism and collectivism are the counterpart of the ancient static concept of order which rested chiefly on the denial of individual freedom.

But the human spirit will not long abide an order which is achieved through a denial of intrinsic human values. As a matter of historical fact, this rigid concept of order has inevitably confronted the irresistible human clamor for *freedom*. In every major sphere of human activity this thirst for freedom became insistent. In the political realm we have already seen that it led to the rise of modern liberal democracy. In the economic sphere it led to laissez-faire capitalism. In religion it produced the Protestant Reformation. In ethical theory it led to an independent or autonomous ethics, freed from insti-

tutional dogma, resting strictly on rational consistency or on natural human behaviour. The great drive was toward the maximum expression of the freedom of the will. The old order was rejected for having erected arbitrary and morally unjustifiable impediments in the path of persons, preventing them from developing along the lines of their capacities and hopes. The concept of order was not, of course, given up; what was given up was the basic presupposition of rigid stratification. In its place was put the ideal of *freedom* which was to achieve a different and more creative and richer order. Vast new areas of human experience were opened up to masses of people. Men shook off the restrictive forces of all kinds and aggressively carved out new channels of activity. There was a prodigious assault upon the natural resources of the world. With great daring the dimensions of space and time were conquered with inventions. Creative energy was everywhere at work. Free men built a new world. The presuppositions of freedom seemed sound: since all men are rational, they will act rationally; to act rationally is to act in such a way that one's freedom can harmonize with another's freedom; free men acting rationally will create a healthy order.

But it was not long before the order resting on freedom came under severe criticism, leading to the gradual curtailment of freedom. Men were rational, but they seemed to bear out Hobbes's most pessimistic analysis when they used their reason not to guide their acts to harmonize with the free acts of others but to outwit the rest. Obvious differences in mental and physical as well as financial endowments began to be reflected in the social organization. The brilliant, strong and rich unavoidably amassed not only wealth but political power. The swift swept past the slow. The strong submerged the weak. The rich held at bay the poor. Once again freedom had produced a rather rigid order. Moreover, there developed immoral practices under the name of freedom. Monopolies sprang up, prices were fixed by collusion and wages were kept at a subsistence level. Freedom had wrought miracles in inventions and production but it had also produced some deformed off-spring causing a disturbing blemish on its record. This blemish was not that the capable were rewarded at a higher rate than the slow, but that this difference was made to imply differences in rights and opportunities. Freedom for some had been used to obstruct the freedom of others. And so freedom for all began to wither.

Freedom as an ideal gradually gave way to the yearning for *security*. Security was translated to mean the maximum satisfaction of human wants. It was a demand for equality of opportunity as well as an equitable share in the products of the economic system. Not only was this a demand for a larger share of the material things of consumption but also a larger access to such crucial needs as medical attention and educational opportunities. There could be no quarrel with these demands for they were what any human being would want. What made their acquisition such a desired object was that they were already available to some and there seemed to be no defensible reason why they could not be shared by the rest. That it cost more money to have education and medical attention as well as the conveniences of material things than most people had did not eradicate the desire for them; there seemed to be something fundamentally wrong with a system which produced things which were not distributed to those who had produced them. The excesses of unenlightened freedom had created a sense of moral indignation which led the deprived multitude to find a powerful ally which would help it wrest from the system the things it wanted. This ally was the government. Under the ideal of *freedom*,

the government had been an umpire; under the ideal of *security*, the government became an active participant in the economic realm, the agency through which human wants were to be maximized. Thus a new order was created where glaring faults were being corrected. But at the same time this process of securing to men the things they wanted through the agency of the government began to exact its toll until in some places men literally handed over their lives in exchange for the benefits promised by the state. The extreme version of this ideal led to the full-blown collectivist state where the people frequently found themselves without the things they were promised, reflecting wistfully and anxiously about the freedom they had lost.

DESTRUCTIVE MOTIVES

This shift from the ideal of *order*, to that of *freedom* and finally to *security* was accomplished over centuries and was a far more complicated process than our rapid sketch of its essential features would indicate. But our concern now is not so much with the history of this development as it is with the fact that these ideals are posed to modern man as alternatives from which he is asked to choose. More specifically, our concern is to determine how these

ideals fit the purposes of a democratic society. From the point of view represented in the previous chapters it would follow that democracy is not faced with a choice between order, freedom or security, for the full purpose of democracy requires that each of these ideals become operative. The infirmity in these ideals, can be traced not to the ideal itself but to the motivation men bring to their application, and to the tendency to exalt one to the exclusion of the others.

The motives of men are mixed and sometimes obscure, but dominant motives can frequently be isolated. The motive which usually leads to the ideal of order, especially the kind reflected in the rigid and stratified society, is the motive of *fear*. Hobbes said as much when he wrote that men enter into a social contract and transfer all their rights out of the fear of sudden death. Not only do men fear the loss of their lives, they also fear the encroachment of others on their property and possessions. They fear intrusion into their customary behaviour as well as the upsetting of their values in life. They fear the threat to their prestige and status. Men and nations fear the loss of markets; classes fear the loss of power. Everywhere the motive of fear causes the erection of barriers, and in society

barriers mean the stratified and rigidly structured society. It is the order which rests on fear that produces the totalitarian state for such a state can justify its enormous power only on the grounds that it has enemies and it is afraid to expose itself to the vulnerable conditions which freedom would entail. Even the individual person accepts the total state or a rigid order because he fears freedom, for freedom imposes heavy obligations upon a person.

The motive of fear is not a creative one and cannot produce a defensible or in the long run an acceptable order. The human spirit will assert its legitimate demand for freedom. But freedom can be used with different motives and historically it began to bring in its train severe social problems when its chief motive was *self-interest*. Indeed, self-interest became the cardinal virtue whose justification rested upon the curious though plausible premise that the self-interest of everyone would in the end systematically coincide. But what the concept of self-interest did not account for was the fact that self-interest could be unenlightened, that self-interest could become selfishness. Nor did this theory account for the fact that in pursuing the maximum amount of pleasure and the minimum amount of pain a person could not on such an abstract rule

feel any obligation to his fellow man except insofar as he could calculate that to injure him was to injure himself. But this was no deterrent to predatory action, for the consequences of such action in many instances would not appear for a long time to come, and not even Bentham's calculus could be effective in staying the hand of the monopolist. It was precisely the untenability of the motive of self-interest which subverted the ideal of freedom, for when freedom was used in an unenlightened manner it meant freedom for some at the expense of the freedom of others. And since some were not free, they sought to get their wants satisfied through power in various forms of organized action, namely, collective bargaining and government intervention. In short, they sought security.

Like the ideals of order and freedom, the quest for security is a legitimate one, but the kind of society it produces depends upon the motive which lies behind it. The nature of man prescribes the nature of his wants and needs. But frequently men are not able to distinguish between their wants and needs and in pursuing only their wants they obstruct the fulfillment of their needs. This occurs when the chief motive in human conduct is material *desire*. The constant dilemma of man is that his spiritual

nature is in competition with his desires. The unbridled desire for the material things of life can lead not only to a deformed life but also to a deformed society. For a society dedicated to the satisfaction of wants whose dimensions are set by desires turns either into the collectivist state by which this material utopia is to be achieved or into an undignified mutual plundering of one group by another.

Thus the motives of fear, self-interest and desire are able to destroy the creative aspects of the ideals of order, freedom and security. And it is when men think that fear, self-interest and desire are the only motives characteristic of human nature that they begin to have serious doubts about the wisdom of setting up a democratic society, for it is feared that a free society made up of selfish and desiring individuals will be a society without order, one where mutual piracy is the rule.

It was from this kind of misgiving that Lord Macaulay wrote a sharp criticism of American democracy, indicating that America would have to choose between the ideals of freedom and order. In a letter written in 1857 to H. S. Randall of New York, who had recently published a biography of Thomas Jefferson, Macaulay said:

Dear Sir: You are surprised to learn that I have not a high opinion of Mr. Jefferson and I am surprised at your surprise. I am certain I never wrote a line and I never in Parliament, in conversation, or even on the Houseings, a place where it is the fashion to court the populace—uttered a word indicating the opinion that the supreme authority in a state ought to be entrusted to the majority of the citizens . . . in other words to the poorest and most ignorant part of society. I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both.

In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. In 1848, a pure democracy was established there. During a short time there was a strong reason to expect a general spoilation, a general bankruptcy, a new partition of the soil, a maximum of prices, a ruinous load of taxation laid on the rich for the purpose of supporting the poor in idleness. Such a system would, in twenty years, have made France as poor and as barbarous as the France of the Carlovingians. Happily, the danger was averted and now there is a despotism, a silent trib-

une, an enslaved press, liberty is gone but civilization has been saved. I have not the smallest doubt that if we had a purely democratic government here, the effect would be the same. Either the poor would plunder the rich and civilization would perish or order and property would be saved by a strong military government and liberty would perish.

You may think your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be certain, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the Old World, and while it is the case, the Jeffersonians' policy may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly peopled as Old England. Wages will be as low and will fluctuate as much with you as with us. You will have your Manchesters and your Birminghams. Hundreds of thousands of artisans will assuredly be sometime out of work. Then your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented and inclines him

to listen with eagerness to agitators who tell him that it is a monstrous iniquity that one man should have a million, while another cannot get a full meal. In bad years there is plenty of grumbling here and sometimes a little rioting. But it matters little, for here the sufferers are not the rulers. The supreme power is in the hands of a class numerous indeed, but select of an educated class, a class which is, and knows itself to be, deeply interested in the security of property and the maintenance of order. Accordingly, the malcontents are firmly yet gently restrained. The bad time is got over without robbing the wealthy to relieve the indigent. The springs of national prosperity soon begin to flow again, work is plentiful, wages rise and all is tranquility and cheerfulness.

I have seen England three or four times pass through such critical seasons as I have described. Through such seasons the United States will have to pass, in the course of the next century . . . How will you pass through them? I heartily wish you a good deliverance, but my reason and my wishes are at war and I cannot help foreboding the worst. It is quite plain that your government will never be able to restrain a distressed and discontented majority. For with you the majority

is the government and has the rich, who are always a minority, absolutely at its mercy. The day will come when in the State of New York, a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose the legislature. Is it possible to doubt what sort of legislature will be chosen? On one side is a statesman preaching patience, respect for vested rights, a strict observance of public faith. On the other is a demagogue ranting about tyranny of capitalists and usurers and asking why anybody should be permitted to drink champagne and to ride in a carriage while thousands of honest people are in want of necessities. Which of the two candidates is likely to be preferred by a working-man who hears his children cry for bread?

I seriously apprehend that you will, in some such season of adversity as I have described, do things which will prevent prosperity from returning; that you will act like people in a year of scarcity devour all seedcorn and thus make the next year not one of scarcity but of absolute famine. There will, I fear, be spoilation. The spoilation will increase the distress. There is nothing to stay you. Your constitution is all sail and no anchor. As I said before, when society has entered on this down-

ward progress, either civilization or liberty must perish. Either some Ceasar or Napoleon will seize the reigns of government with a strong hand, or your Republic will be fearfully plundered and laid waste by barbarians in the twentieth century as the Roman Empire was in the fifth; with this difference, that the Huns and Vandals who ravaged the Roman Empire came from without; and that your Huns and Vandals will have engendered within your country by your own institutions.

Thinking of this, of course, I cannot reckon Jefferson among the benefactors of mankind. . . .¹

Some of the things Macaulay predicted for America did come to pass simply because the motives he described have at all times played some part in the history of human behaviour. But these are not the only motives by which men live. Nor are fear, self-interest and desire the motives upon which the enterprise of democracy was built nor upon which its continued vitality can rest.

THE MOTIVE OF CHRISTIAN LOVE

It took a far more creative motivation to produce the democratic philosophy and the open society which is democracy. And it is not surprising that

¹ *Harper's Magazine*, No. 321, February (1877), pp. 460-461.

it is precisely at this point that the Judaeo-Christian view of man with its teaching of the morality of love becomes extremely relevant. For there can be no more creative basis for order, freedom and security than the one which the motive of love can provide. This is what Bertrand Russell meant when he wrote, after recounting all the reasons for being pessimistic because of the way man in fact behaves: "The root of the matter is a very simple and old fashioned thing, a thing so simple that I am almost ashamed to mention it, for fear of the derisive smile with which wise cynics will greet my words. The thing I mean—please forgive me for mentioning it—is love, Christian love, or compassion. If you feel this you have a motive for existence, a guide in action, a reason for courage, an imperative necessity for intellectual honesty. . . . Although you may not find happiness, you will never know the deep despair of those whose life is aimless and void of purpose; for there is always something you can do to diminish the awful sum of human misery." ²

What Saint Augustine had in mind when he spoke of society as resembling the theater audience was that even though any play, any object can unite a

² Bertrand Russell, *The Impact of Science on Society*, p. 59.

group, there are differences in the kind of community these differing objects will produce. In the end some ideals or object will elicit from man his highest devotion and his deepest affection, but for the Christian there is a clear hierarchy of values corresponding to the various objects of human affection. This scale of values is put into its proper perspective when it is held that all things come from God, who is therefore the source of all being and value. From the Christian point of view the chief error into which man can fall is to mistake any contingent and partial being as the final and ultimate truth or value. God is the supreme value and the highest being, or in the words of the New Testament, God is Love. Since man derives his being and nature from the God of Love, his nature involves the nature of love, and this is why man's highest duty is to love God and his fellow man. This love is the law of life and ought to be the motive of human conduct in its many forms.

Love is not sentimental nor is it unconcerned with justice. Love does not imply an unrealistic approach to the concrete problems of social and political life. The motive of love is an alternative for the motives of fear, self-interest and desire. It does not seek the destruction of social institutions but seeks to

infuse them with a creative power which lesser motives cannot provide. It is otherworldly in the sense that its source is the God of Love. This love is not wholly optional with man but is rather the motive by which he must live as a creature of God who created him for the purpose of love. The nature of man is never fully defined until his relation to God is taken into account. Man's *essential* nature is most fully grasped when it is viewed from the perspective of his purpose as a creature of God. The high estimate of man which the Judaeo-Christian tradition provided democracy rests upon this insight that God created man for a certain purpose and his dignity and value are bound up with this creative act. But to account for man's purpose in terms of his relation to God is also to find man's highest duty explained by his nature, which is his capacity and need to love God and his fellow man. It is not so much that by acting out of the motive of love man will achieve a higher degree of peace and tranquility or that he will hereby most adequately fulfill his nature, although these are true, as it is that because this is his nature he should therefore love the proper objects properly.

Love can provide the basis for the democratic conception of order. The kind of order love pro-

duces will be different from the order which rests upon fear, for "love casteth out all fear" and with it all the artificial and divisive barriers which fragmentize the human community. To say that love casteth out all fear is to say that it is a positive and creative attitude toward human beings. A democracy presupposes that men can be trusted; democracy has a genuine faith in man. To the extent that man will break his faith with society, democracy arms itself with certain protective devices such as the periodic change in leaders, the applicability of law to all members of the society and finally the organization of the power of society into actual force to be used when men "go on a rampage." And all this is consistent with love, for love has never meant that men are angels; the most it includes is the love of others as creatures of God, respect of them, and concern about them; it means that to be thus concerned about them is to re-create them and cause them to become members of the human family on a creative basis. In short, love produces order on the basis of the creative community of concern. Equalities and inequalities are here of less importance than the fact of inclusion in the community on a creative and free basis. And love surely rules out the concept of order developed by the totalitarian state, for here

man's highest devotion is claimed by the State, whereas for the Christian this devotion can only be rendered unto God. Love, therefore produces the order of fellowship and renounces all rigid stratification in society inasmuch as this breaks human fellowship. The order a democracy seeks is the order which is most creatively produced by the motive of love.

The democratic ideal of freedom is most effectively achieved through the motive of love. For we have seen that the creative aspects of free conduct in society can be seriously deformed when the motive behind freedom is self-interest. But "love vaunteth not itself" and leads freedom along the lines of responsibility. The precondition of freedom in any realm is obedience to the moral law. There would be no anti-trust laws if industry had not committed immoral acts; there would be no curtailment of freedom if men in their free acts followed the moral law. There would be no intervention by the government in those affairs which men could individually undertake if they would act not out of self-interest but out of the deep and genuine concern for the whole community. Luther put this point in striking terms when he said that the Christian is the freest of all men, but that at the same time the Christian

is the servant of all. It is by being concerned with one's fellow man that one really gains freedom. To say that love vaunteth not itself is to say that love provides democracy with a creative basis for freedom for it makes the necessary connection between freedom and responsibility.

Finally, love clarifies the problem of economic security for it helps to make the important distinction between human wants and needs. The motive of desire tends to gravitate toward the objects of pleasure and sense, but "love seeketh not its own." The object of love is in the first instance God, and to love God is to have a criterion by which to measure other values. Augustine had said that one ought to love God and do as he pleases; but it is clear that to love God is to do other things than those which a different object of love would elicit. In its realism love seeks to provide for all human beings the necessities of life. Man's nature requires the material things of life; the material realm is the creation of God and is therefore good. The vast resources of the earth are man's. Love seeks not its own but seeks to render meaning to Jesus' words when he said that "I am come that ye might have life and have it more abundantly." But despite the necessity for providing the satisfaction of man's

legitimate wants, love turns man's attention also to his need. Man needs God and the kind of human association that love of one's fellow man produces. His needs lie in the realm of the spirit, "for what does it profit a man if he gain the whole world and lose his own soul?" The motive of love provides democracy with the most creative basis for security, for it establishes it upon the foundation of the spirit. It prevents man from selling his birthright for a mess of pottage.

There is a final dimension to love which bears significantly upon our concern, for the nature of Christian love is most profoundly revealed in the idea of God's forgiveness. God's love is most deeply expressed in his mercy, by which He forgives man. It is also this kind of love that man is called upon to show to his fellow man. There is no room in the life of love for pretensions to exclusive perfection. Here is the creative morality for recreating the fellowship among men after each experience of tragic rupture of the human community. Democracy, more than any other system, requires and makes room for man's highest motive. And the motive of love provides democracy with its most creative element.

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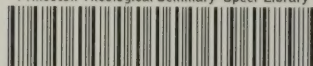
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